

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF OKLAHOMA**

**1. W. A. DREW EDMONDSON, in his  
capacity as ATTORNEY GENERAL OF  
THE STATE OF OKLAHOMA and  
OKLAHOMA SECRETARY OF THE  
ENVIRONMENT C. MILES TOLBERT, in  
his capacity as the TRUSTEE FOR  
NATURAL RESOURCES FOR THE  
STATE OF OKLAHOMA,**

**Plaintiff,**

**vs.**

**CV-0329-JOE-SAJ**

**1. TYSON FOODS, INC.,  
2. TYSON POULTRY, INC.,  
3. TYSON CHICKEN, INC.,  
4. COBB-VANTRESS, INC.,  
5. AVIAGEN, INC.,  
6. CAL-MAINE FOODS, INC.,  
7. CAL-MAINE FARMS, INC.,  
8. CARGILL, INC.,  
9. CARGILL TURKEY PRODUCTION,  
LLC,  
10. GEORGE'S, INC.,  
11. GEORGE'S FARMS, INC.,  
12. PETERSON FARMS, INC.,  
13. SIMMONS FOODS, INC., and  
14. WILLOW BROOK FOODS, INC.,**

**Defendants,**

**TYSON FOODS, INC., TYSON  
POULTRY, INC., TYSON CHICKEN,  
INC., COBB-VANTRESS, INC.,  
GEORGE'S, INC., GEORGE'S FARMS,  
INC., PETERSON FARMS, INC.,  
SIMMONS FOODS, INC., and WILLOW  
BROOK FOODS, INC.**

**Third-Party Plaintiffs,**

**vs.**

1. CITY OF TAHLEQUAH, )
2. CITY OF WESTVILLE, )
3. CITY OF WATTS, )
4. SEQUOYAH FUELS )
- INTERNATIONAL, )
5. EAGLE NURSERY, LLC A/K/A )
- MIDWESTERN NURSERY )
- CONTAINERS DIVISION, )
6. PARK HILL PLANTS & TREES, )
- INC., )
7. GREENLEAF NURSERY CO, INC., )
8. NORTHLAND FARMS, LLC, )
9. WILLIAM D. LANGLEY, )
10. RONALD LEE AND LINDA S. )
- FIDLER, )
11. FIDLERS BEND FARMS & )
- TRADING CO., LLC, )
12. DARRELL MOSS, )
13. DARRYL CATES, )
14. MILDRED RAYLS WOODWARD, )
15. ANCIL MAGGARD, )
16. BRYAN SAND AND GRAVEL, INC., )
17. JESSE T. PROCTOR, )
18. LENA AND GARNER GARRISON, )
19. BRAZIL CREEK MINERALS, INC., )
20. JULIE A. AND JOHN E. )
- COTHERMAN, )
21. HELEN WATTS, TRUSTEES OF )
- THE HELEN WATTS REVOCABLE )
- TRUST, )
22. SIMP WATTS, TRUSTEE OF THE )
- SIMP WATTS REVOCABLE TRUST, )
23. T&M SAND AND GRAVEL, INC., )
24. HOBY FERRELL, )
25. GREATER TULSA INVESTMENTS, )
- LLC, )
26. WAUHILLA OUTING CLUB, )
27. ONE DEGREE LAWN CARE AND )
- LANDSCAPING, )
28. BIG JOHN'S, )
29. PRO LAWN SERVICES, INC., )
30. THORNTON LAWN & )
- EXTERMINATING, INC., )
31. SPRING HOLLOW FEED MILL, )
- INC., )

32. TURF PROFESSIONAL, )
33. CHERRY SPRINGS GOLF CLUB, )  
INC., )
34. LAKE COUNTRY RESORT, INC., )  
D/B/A TENKILLER GOLF CLUB )
35. MILLIE SERATT TRUST, )
36. ILLINOIS RIVER RANCH )  
RECREATIONAL VEHICLE PARK )  
PROPERTY OWNERS )  
ASSOCIATION, )
37. ILLINOIS RIVER RANCH )  
PROPERTY OWNERS )  
ASSOCIATION, )
38. FLINT RIDGE PROPERTY )  
OWNERS ASSOCIATION, INC., )
39. MARJORIE A. GARMAN, )
40. RIVERSIDE RV RESORT AND )  
CAMPGROUND, LLC, )
41. FRATES PROPERTIES, INC., )
42. BRIAN R. AND MARY C. BERRY, )  
INDIVIDUALLY AND D/B/A TOWN )  
BRANCH GUEST RANCH, )
43. AUSTIN L AND LESLIE A. )  
BENNETT, INDIVIDUALLY AND )  
D/B/A EAGLE BLUFF RESORT, )
44. BARNACLE BILLS MARINA, LLC )
45. PHILIP L AND CHERYL D )  
BEAMAN, )
46. FALCON FLOATS, INC., )
47. NORMA J. BROOKS, )  
INDIVIDUALLY AND D/B/A )  
COOKSON VILLAGE AND CABINS, )
48. BURNT CABIN MARINA AND )  
RESORT, LLC, )
49. FIN & FEATHER RESORT, INC., )
50. JAMES AND DOROTHY GENE )  
LAMB, )
51. STRAYHORN LANDING MARINA )  
& GENE'S SCUBA SALES, )
52. PINE COVE MARINA & )  
CLEARWATER CAFÉ, INC., )
53. JOHN T. POSEY, JR. TRUST, )  
INDIVIDUALLY AND D/B/A )  
MEADOW PARK RV PARK, )
54. SNAKE CREEK MARINA, LLC, )
55. ELK CREEK LANDING, )

- 56. FLINTRIDGE PARK, LLC, )
- 57. BILL STEWART, INDIVIDUALLY )
- AND D/B/A DUTCHMAN'S CABINS, )
- 58. TOM COTTON, INDIVIDUALLY )
- AND D/B/A CHICKEN CREEK )
- VILLAGE STORE, )
- 59. JOHN T. POSEY, JR., )
- 60. GRANDE VILLA, INC., )
- 61. BISHOP H. AND WILMA F. )
- WADSWORTH, INDIVIDUALLY )
- AND D/B/A COOKSON LOG CABIN )
- MOTEL, )
- 62. ARROWHEAD CAMP, INC., )
- 63. DAVID AND BRENDA SPEARS, )
- 64. THUNDERBIRD RESORT, INC., )
- 65. WAR EAGLE FLOATS, INC., )
- 66. VERAMAN AND BILLIE DAVIS, )
- 67. SNAKE CREEK WILDERNESS )
- DEVELOPMENT, INC., )
- 68. SIXSHOOTER RESORT AND )
- MARINA, INC., )
- 69. VIRGINIA M. AND ARCHIE R. )
- PEYTON, JR. AS TRUSTEES OF )
- THE PEYTON FAMILY TRUST, )
- INDIVIDUALLY AND D/B/A )
- PEYTON'S PLACE, )
- 70. JOHN T. AND GEORGE CRIPPS, )
- 71. EURMA WHITE, INDIVIDUALLY )
- AND D/B/A BARON FORK CREEK )
- CAMP, )
- 72. EWELL VAN AND ALICE L. EARL, )
- INDIVIDUALLY AND D/B/A )
- PETTIT BAY CABINS & GROCERY, )
- 73. KEVIN R AND BARBARA L. )
- KELLEY, INDIVIDUALLY AND )
- D/B/A DIAMOND HEAD RESORT, )
- 74. KENNETH D AND JANE T. )
- SPENCER, INDIVIDUALLY AND )
- D/B/A SPENCER RIDGE RESORT, )
- 75. JAMES C. GEIGER, )
- INDIVIDUALLY AND D/B/A )
- SPENCER RIDGE RESORT, )
- 76. JACK AND BRENDA K. SPEARS, )
- INDIVIDUALLY AND D/B/A PINE )
- VALLEY CABINS, )
- 77. STEPHEN R., JENNI AND BRIAN R. )

- HAMRICK, INDIVIDUALLY AND )  
D/B/A HANGING ROCK CAMP AND )  
STORE, )  
78. TAHLEQUAH LIVESTOCK )  
AUCTION, INC, )  
79. GORDON W. AND SUSANN )  
CLINTON, )  
80. PERRY AND NORMA WILLIAMS, )  
81. TWIN CITY CONSTRUCTION, INC., )  
82. EDDINGS ELMO, )  
83. CHARLINE EDDINGS LONG, )  
84. LADONNA EDDINGS CAVINESS, )  
85. THOMAS E. EDDINGS, )  
86. SUE EDDINGS SHANKLE, )  
87. BONNIE EDDINGS KILE, )  
88. FLOYD SIMMONS, )  
89. WILLIAM J. AND CHERRIE )  
HOUSE, )  
90. RICKY AND TONYA FOWLER, )  
91. BILLY D. AND NORMA GLENN, )  
92. DAVID ALBERT AND BOBBIE ANN )  
STRATTON, )  
93. ROBERT A. AND SYLVIA S. SMITH, )  
TRUSTEES OF THE ROBERT A. )  
SMITH TRUST, )  
94. ANNA MARIE SANDERS, )  
95. DANNY E. AND CAROLYN HIX, )  
96. DAVID R AND ROBIN L. )  
WOFFORD, )  
97. HASKELL L. BROWN, )  
98. JOHN NICKLE, )  
99. J5 RANCH, LLC, )  
100. TOM TATE, )  
101. SKELLY RANCH, INC., )  
102. GENE AND LORENE COLBURN, )  
103. TRUSTEES OF THE JOHN E. AND )  
VIRGINIA W. ADAIR FAMILY )  
REVOCABLE TRUST, )  
104. JOHN W. AND VIRGINIA W. )  
ADAIR, )  
105. CLARE LOUISE WELLS, )  
INDIVIDUALLY AND D/B/A MX )  
RANCH, )  
106. LOUISE SQUYRES, )  
INDIVIDUALLY AND D/B/A MX )  
RANCH, )

- 107. SUZANNE M.ZEIDERS, )
- 108. BOBBY AND MARIAN WILLIAMS, )  
INDIVIDUALLY AND D/B/A )  
WILLIAMS DAIRY, )
- 109. BILLY SIMPSON, INDIVIDUALLY )  
AND D/B/A SIMPSON DAIRY, )
- 110. RAY DEAN AND DONNA DOYLE, )  
INDIVIDUALLY AND D/B/A )  
SIMPSON DAIRY, )
- 111. CLIFTON WILLIAMS, )  
INDIVIDUALLY AND D/B/A )  
WILLIAMS DAIRY, )
- 112. JERRY D. AND CHRISTINA )  
WILLIAMS, INDIVIDUALLY AND )  
D/B/A SIMPSON DAIRY, )
- 113. DARRELL AND DIANNA GUFFEY, )  
INDIVIDUALLY AND D/B/A )  
SELDON REST DAIRY, )
- 114. LARRY R AND CAROLYN R )  
LOCKWOOD, )
- 115. CHARLES W. AND KIMBERLEE )  
WILSON, )
- 116. WILLIE AND ELISE TARRANCE, )
- 117. ILLINOIS RIVER VALLEY )  
NURSERY, INC., )
- 118. KERMIT AND KATHERINE )  
BROWN, )
- 119. DEAN WILMOTH, )
- 120. KATHERINE L. AND KEVIN W. )  
TYE, )
- 121. THE HAYES FAMILY LIMITED )  
PARTNERSHIP, )
- 122. FLINT CREEK FARM, LLC, )
- 123. JAMES THOMAS AND ERIN )  
JONES, )
- 124. TIM AND ISABEL BAKER CO- )  
TRUSTEES OF THE TIM AND )  
ISABEL BAKER TRUST, )
- 125. DALE E. AND ELLEN MATHEWS )  
CO-TRUSTEES OF THE DALE E. )  
MATHEWS TRUST, )
- 126. CARL MERSEBURGH, )
- 127. GAIL B. WILTON, )
- 128. ROGER K. AND LINDA MATHIS )  
CANADA, )
- 129. BILLIE D. HOWARD, )

- 130. RICHARD M. TAYLOR, )
- 131. IVAN MARION, )
- 132. DANIEL L. PARKER, )
- 133. BARTOW AND WANDA HIX, )
- 134. RICKEY JOE AND RITA HIX, )
- 135. JERRY W. HARE TRUSTEE OF )  
JERRY WAYNE HARE )  
REVOCABLE TRUST, )  
INDIVIDUALLY AND D/B/A )  
CRYSTAL CREEK RANCH, )
- 136. JERRY WAYNE AND MARY JO )  
HARE, INDIVIDUALLY AND D/B/A )  
CRYSTAL CREEK RANCH, )
- 137. MARY JO HARE TRUSTEE OF )  
MARY JO HARE REVOCABLE )  
TRUST, AND D/B/A CRYSTAL )  
CREEK RANCH )
- 138. ANTHONY WAYNE HARE, )  
INDIVIDUALLY AND D/B/A )  
CRYSTAL CREEK RANCH, )
- 139. FARRELL AND JACKIE HAMM, )
- 140. TONY MARCUS AND LAURA JANE )  
HAMM, )
- 141. TOM AND DARYLENE HAMM, )
- 142. JIM R. BAGBY, )
- 143. JERRY AND ANN MEANS, )
- 144. JERRY AND DOROTHY ANN )  
MEANS TRUSTEES OF THE )  
DOROTHY ANN MEANS TRUST, )
- 145. JERRY AND DOROTHY ANN )  
MEANS TRUSTEES OF THE JERRY )  
L. MEANS, TRUST, )
- 146. RONALD ALLEN AND COLLEEN )  
BROWN, )
- 147. ALFRED E. AND CAROLYN S. )  
HEMBREE, )
- 148. STEVEN WESLEY CAIN, )
- 149. WANDA L. DOTSON, )
- 150. RIVER FARMS OF TAHLEQUAH )  
LLC, )
- 151. EVELYN PROCTOR, )
- 152. MARK AND MELISSA KELLY, )
- 153. PHILLIP DEWAYNE PROCTOR, )
- 154. M WESLEY AND BROOKS P. )  
CONNOR, )
- 155. VERLIE B. SECRATT AS TRUSTEE )

OF THE VERLIE BERNIECE )  
 SECRATT REVOCABLE TRUST, )  
 156. JAMES D. AND SUSAN MORRISON, )  
 157. KENNETH E. DAVIS, )  
 158. TUMBLING T. BAR, LLC, )  
 159. EUGENE DILL, INDIVIDUALLY )  
 AND D/B/A COOKSON COUNTRY )  
 STORE AND CABINS, )  
 160. DORIS MARES, INDIVIDUALLY )  
 AND D/B/A COOKSON COUNTRY )  
 STORE AND CABINS, )  
 161. JOHN AND/OR JANE DOE(S) 1 )  
 THROUGH 150. )  
 )  
 )  
 Third Party Plaintiffs. )

### **THIRD PARTY COMPLAINT**

#### **I. BACKGROUND**

Defendants/Third Party Plaintiffs, Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., Cobb-Vantress, Inc., Peterson Farms, Inc., Simmons Foods, Inc., George's, Inc., George's Farms, Inc. and Willow Brook Foods, Inc. (collectively referred to hereinafter as "Third Party Plaintiffs"), having denied all liability to the State of Oklahoma, *ex rel.* W.A. Drew Edmondson, in his capacity as Attorney General of the State of Oklahoma, and Oklahoma Secretary of the Environment, C. Miles Tolbert, in his capacity as the Trustee for Natural Resources for the State of Oklahoma ("Plaintiffs"), hereby set forth their third-party claims pursuant to Fed. R. Civ. P. 14(a).

1. As specified in further detail below, Third Party Plaintiffs' claims stated herein are prompted by and based upon the allegations contained in the Plaintiffs' First Amended Complaint ("Complaint") (attached hereto as Exhibit "1"), which are incorporated by reference as though fully restated herein. In their Complaint, Plaintiffs



assert that Third Party Plaintiffs caused injury to the Illinois River Watershed (“IRW”),<sup>1</sup> including the biota, lands, water and sediments therein as a consequence of the practice of land applying poultry litter that comes from poultry growing operations operated by farmers who contract with a Third Party Plaintiff to grow that company’s poultry (“independent contract farmers”). Plaintiffs assert that the use of poultry litter in agricultural operations has resulted in the release and disposal of “hazardous materials,” “hazardous wastes,” and “solid wastes” as those terms are defined by federal statute. Plaintiffs attribute their claimed injury to the release of nutrients such as phosphorus and nitrogen, as well as five additional constituents set forth in Paragraph No. 58 of the Complaint. Plaintiffs purport to state ten counts against the Third Party Plaintiffs, including claims for cost recovery under the Comprehensive Environmental Response, Compensation and Liability Act (“CERCLA”), 42 U.S.C. § 9607(a); natural resource damages under CERCLA, 42 U.S.C. § 9607(f); injunctive relief under the Citizen Suit provision of the Solid Waste Disposal Act, (“SWDA”), 42 U.S.C. § 6972; public and private nuisance and nuisance *per se* under Oklahoma law and federal common-law; trespass under Oklahoma law; violations of Oklahoma statutes and regulations, namely 27A O.S. § 2-6-105, 2 O.S. § 2-18.1, 2 O.S. § 10-9.7, OAC §35:17-5-5, and OAC § 35:17-3-14; and unjust enrichment, and restitution and disgorgement under Oklahoma law. Plaintiffs are purporting to recover past and future damages, restitution, environmental assessment, remediation, punitive damages, temporary and permanent injunctive relief, attorney’s fees and costs.

2. The Third Party Plaintiffs deny that their conduct and that of the independent contract poultry farmers is anything other than lawful, prudent, agricultural

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<sup>1</sup> Complaint at ¶ 22.

activity that has been officially sanctioned by the Legislatures of the States of Oklahoma and Arkansas. By virtue of the broadly cast allegations of the Complaint, it is clear that Plaintiffs are asserting that any conduct within the IRW which results in the release of phosphates or phosphorus-containing compounds (hereinafter referred to collectively as “phosphorous”), nitrogen or any of the other listed constituents is unlawful activity, which gives rise to liability to Plaintiffs for damages and injunctive relief. As such, in light of Plaintiffs’ stated intention to hold the Third Party Plaintiffs jointly and severally liable for the entirety of the alleged injury claimed to exist in the IRW, the Third Party Plaintiffs are entitled and compelled to bring third-party claims against other persons and entities who conduct activities within the IRW that release phosphorus, nitrogen or any other purportedly harmful constituent into the IRW. Should the Plaintiffs prevail on their claims and theories, thereby holding the Third Party Plaintiffs liable to any extent, the following Third Party Defendants should be liable in the same manner to the extent of their several share of liability under the theory of contribution, or in the alternative indemnity. Accordingly, the Third Party Plaintiffs set forth the following allegations based upon their knowledge, information and/or belief.

3. Any contributions from poultry litter applications by the Third Party Plaintiffs or the independent contract poultry farmers with whom they contract to the overall loading of phosphorous, nitrogen or any other purportedly harmful constituent in the IRW (which contribution is denied) would be insignificant in comparison to the contributions of the Third Party Defendants and the thousands of other persons, corporations and political subdivisions operating within the IRW.

4. Numerous Municipal Publicly Operated Treatment Works (“POTWs”)

discharge directly into the tributaries in the IRW wastewater containing some or all of the same constituents identified in the Complaint. The Oklahoma Department of Environmental Quality (“ODEQ”) has estimated that these POTWs, standing alone, account for over approximately one-third of the total observed phosphorous load in the IRW. No POTWs were joined by the Plaintiffs in the Complaint.

5. With respect to non-point source “dischargers” of phosphorous, the Oklahoma Conservation Commission (“OCC”) has concluded that cattle operations are a larger contributor in the IRW than poultry farms. Cattle manure contains substantial amounts of some or all of the same constituents identified in the Complaint. No cattle operations were joined by the Plaintiffs in the Complaint.

6. The OCC has also concluded that stream bank erosion due to the improper clearing of trees and vegetation along riparian lands throughout the IRW is the “primary problem” in the IRW. Eroded materials from improperly managed stream banks contain substantial amounts of some or all of the same constituents identified in the Complaint. None of the individuals responsible for the improper clearing or management of riparian lands in the IRW were joined by the Plaintiffs in the Complaint.

7. Numerous landowners in the IRW, including large hay farmers, apply large quantities of fertilizers, herbicides and pesticides to the lands in the IRW including lands located in close proximity to the creeks, streams and rivers comprising of the tributary system in the IRW. These fertilizers, herbicides and pesticides contain substantial amounts of some or all of the same constituents identified in the Complaint. None of the sellers, distributors, applicators or users of commercial fertilizers, herbicides and pesticides in the IRW were joined by the Plaintiffs in the Complaint.

8. The OCC has reported for several years now that several large Oklahoma nurseries have substantially contributed to phosphorous and nitrogen loading in the IRW. None of these nurseries were joined by the Plaintiffs in the Complaint.

9. Decentralized underground wastewater treatment and storage systems such as septic tanks and community sewage systems (collectively referred to as “Private Sewage Systems”) are located through the IRW, often times located in close proximity to the creeks, streams and rivers comprising the tributary system in the IRW. These Private Sewage Systems discharge large quantities of some or all of the same constituents identified in the Complaint into the soil and groundwater in the IRW. Due to the geologic features of the soil and groundwater in the IRW, the constituents discharged from these Private Septic Systems are readily transported to the nearby creeks, streams and river comprising the tributary system in the IRW. None of the owners and operators of these Private Septic Systems were joined by Plaintiffs in the Complaint.

## **II. PARTIES**

### **Third Party Plaintiffs**

10. Third Party Plaintiff, Tyson Foods, Inc., is a corporation under the laws of Delaware, and has its principal place of business in Arkansas.

11. Third Party Plaintiff, Tyson Poultry, Inc., is a corporation under the laws of Delaware, and has its principal place of business in Arkansas.

12. Third Party Plaintiff, Tyson Chicken, Inc., is a corporation under the laws of Delaware, and has its principal place of business in Arkansas.

13. Third Party Plaintiff, Cobb-Vantress, Inc., is a corporation under the laws of Delaware, and has its principal place of business in Arkansas.

14. Third Party Plaintiff, George's, Inc., is a corporation under the laws of Arkansas, and has its principal place of business in Arkansas.

15. Third Party Plaintiff, George's Farms, Inc., is a corporation under the laws of Arkansas, and has its principal place of business in Arkansas.

16. Third Party Plaintiff, Peterson Farms, Inc., is a corporation under the laws of Arkansas, and has its principal place of business in Arkansas.

17. Third Party Plaintiff, Simmons Food, Inc., is a corporation under the laws of Arkansas, and has its principal place of business in Arkansas.

18. Third Party Plaintiff, Willow Brook Foods, Inc., is a corporation under the laws of Missouri, and has its principal place of business in Missouri.

### **III. Third Party Defendants**

19. Third Party Defendant, the City of Tahlequah, is a municipal corporation in the State of Oklahoma, which discharges treated sewage and/or wastewater pursuant to NPDES permit no. OK0026964, and has allowed the disposal of sewage sludge from its treatment plants into the IRW, which include but are not limited to the constituents alleged to have been discharged into the IRW in the Complaint. Upon information and belief, the City of Tahlequah has also engaged in the practice of applying fertilizers and pesticides to properties of the City of Tahlequah within the IRW. Moreover, Third Party Defendant, City of Tahlequah owns and operates the Tahlequah City Golf Course located at Route 1, Box 189, Vian, Oklahoma in the IRW. Upon information and belief, City of Tahlequah systematically applies fertilizers and other chemicals to its golf course located within the IRW. Tahlequah City Golf Course also has sewage lagoons which receive a portion of the runoff from the fairways. The operations and activities described above

have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the City of Tahlequah's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

20. Third Party Defendant, the City of Westville, is a municipal corporation in the State of Oklahoma, which discharges treated sewage and/or wastewater pursuant to NPDES permit no. OK0028126, and has allowed the disposal of sewage sludge from its treatment plants into the IRW. Upon information and belief, the City of Westville has also engaged in the practice of applying fertilizers and pesticides to properties of the City of Westville within the IRW. These activities are on-going and continuous. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the City of Westville's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

21. Third Party Defendant, the City of Watts, a municipal corporation in the State of Oklahoma, which discharges treated sewage and/or wastewater, and has allowed the disposal of sewage sludge from its treatment plants into the IRW. Upon information and belief, the City of Watts has also engaged in the practice of applying fertilizers and pesticides to properties of the City of Watts within the IRW. These activities are on-

going and continuous. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the City of Watt's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

22. Third Party Defendant, Sequoyah Fuels International is a corporation under the laws of Delaware. Sequoyah Fuels International operates a facility located in Gore, Oklahoma. Sequoyah Fuels International's operations include but are not limited to the production of uranium hexafluoride and uranium hexafluoride to uranium tetra fluoride. Sequoyah Fuels holds a NPDES Permit No. OK0000191, which allows Sequoyah Fuels Corporation to discharge wastewater directly into waters within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Sequoyah Fuels' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

23. Third Party Defendant, Eagle Nursery LLC a/k/a Midwestern Nursery Containers Division is a limited liability corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Eagle Nursery is a commercial nursery located at Hwy 10 and Ben George Road in Tahlequah, Oklahoma, more specifically

identified as:

Beginning at the NW Corner of Lot 2, Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma; Thence S00°24'04" E on West line said Section 19, a distance of 1318.92 feet to the SW corner of Govt. Lot 2; Thence continuing S 00°24'04"E along said line, a distance of 896.93 feet; thence S 73°24'03" E, a distance of 703.11 feet; thence S 00°08'10"E, a distance of 747.71 feet; thence N 75°06'29"E, a distance of 684.67 feet; thence N 00°09'00"W, a distance of 92.96 feet; thence N 89°29'45"E, a distance of 357.85 feet; thence N 11°39'14"E, a distance of 631.35 feet; thence N 25°39'14"E, a distance of 355.06 feet; thence S 72°31'52"E, a distance of 20.44 feet to the NW corner of the NE4 SE4 SW4; thence N 00°09'26"W on West line E2 NE4 SW4, a distance of 660.18 feet to the NW corner of the E2 NE4 SW4; thence N01°10'16"W, a distance of 35.00 feet; thence N 88°57'02"E, a distance of 252.65 feet; thence N 12°26'34"E, a distance of 216.25 feet; thence N 08°39'10"E, a distance of 168.19 feet; thence N 11°27'20"E, a distance of 150.33 feet; thence N 88°52'26"W, a distance of 363.90 feet; thence N00°38'59"W, a distance of 748.29 feet; thence S 89°25'34"W, a distance of 643.69 feet; thence S 00°09'00"E, a distance of 1319.62 feet; thence S 89°27'18"W, a distance of 616.70 feet; thence N 00°08'10"W, a distance of 1319.29 feet; thence S 89°25'34" W, a distance of 683.60 feet to the point of beginning; said described tract containing 106.5 acres, more or less; and;

A tract of land lying in and being part of the SE4 of the NE4 and the NE4 of the SE4 of Section 24, Township 17 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma; more particularly[sic.] described as: Beginning at the NE/Corner of the SE4 of the NE4 said section 24; thence S 0°24'04"E along East line E2 a distance of 2215.85 feet; thence N 73°24'03" W a distance of 197.20 feet; thence S 73°00'27"W a distance of 1179.45 feet to the West line E2 E2; thence N 0°26'35" W along said west line E2 E2 a distance of 1129.4 feet; thence S 48°40'00" E a distance of 234.8 feet; thence N 56°17'49"E a distance of 740.83 feet; thence N 26°02'49" a distance of 768.00 feet; thence N 31°44'11" W a distance of 316.86 feet; thence N 58°15'49" E a distance of 301.93 feet to the North line of the SE4 of the NE4; thence N 89°41'E along said North line SE4 NE4 a distance of 90.20 feet to the point of beginning said tract contains 39.9 acres, more or less.

Upon information and belief, Eagle Nursery engages in the growth and harvesting of plants upon its property and utilizes fertilizers, pesticides, and herbicides. This conduct is on-going and continuous. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW.



Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Eagle Nursery's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

24. Third Party Defendant, Park Hill Plants & Trees, Inc. is a corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Park Hill Plants & Trees is a commercial nursery located in Tahlequah, Oklahoma, more specifically identified as:

A tract of land lying and being a part of the SW4 of the NW4 of Section 14, Township 16 North, Range 22 East, more particularly described as follows, to-wit: Beginning at a Point 427.63 feet East and 533.5 feet South of the NW/Corner of the SW4 of the NW4 of said Section 14; Thence N.89°33'E. a distance of 280.8 feet; Thence S.0°04'E. a distance of 460.30 feet; Thence N.86°21'E. a distance of 401.30 feet; Thence S.8°49'W. a distance of 199.68 feet; Thence N.52°44'18"W. a distance of 137.97 feet; Thence S.82° 47'28"W. a distance of 378.5 feet; Thence S.86°34'04"W. a distance of 168.65 feet; Thence N.0°14'E. a distance of 603.90 feet to the Point of Beginning, containing 4.98 acres, more or less, according to the United States Survey thereof; and;

Lots 1, 2, 3, 4 and 5, in Block 3, North Park Hill, Cherokee County, Oklahoma, AND the SE/4 of the SW/4 of the NE/4 and the S/2 of the SE/4 of the NE/4 and the NE/4 of the SE/4 and the N/2 of the SE/4 of the SE/4 and the NE/4 of the NW/4 of the SE/4 and the S/2 of the NW/4 of the SE/4.

LESS AND EXCEPT two parcels of land described as follows:

PARCEL 1. A tract of land in the SW/4 of the SE/4 of the NE/4 and the SE/4 of the SW/4 of the NE/4 of Section 15, Township 16N. Range 22E, to-wit: beginning at a point 200 feet East of the NE corner of the W/2 of the SE/4 of the SE/4 of the NE/4, thence South a distance of 200 feet, thence West a distance of 1,115 feet, to a point 200 feet South and 75 feet East of the NW corner of SE/4 of the SW/4 of the NE/4, thence Northwest on a direct line to the NW corner of said SE/4 of the SW/4 of the NE/4, thence East a distance of 1,190 feet more or less to the point of beginning; and;

PARCEL 2. A one acre tract of land in the SE/4 of the SE/4 of the NE/4

of Section 15, Township 16N, Range 22E, to wit; beginning at the NE corner of the SE/4 of the SE/4 of the NE/4, thence West a distance of 208.71 feet, thence South a distance of 208.71 feet, thence East a distance of 208.71 feet, thence North a distance of 208.71 feet, to the point of beginning; All of the above located in Section 15, Township 16N, Range 22 E, Cherokee County, Oklahoma;

and;

The SW/4 SW/4 NE/4 and N/2 S/2 SW/4 and N/2 SW4 and S/2 SE/4 NW/4 and SW/4 NW/4 of Section 14, Township 16 North, Range 22 East, Cherokee County, Oklahoma, according to the U.S. Survey, and all right, title and interest to easements to the Illinois River for irrigation,

LESS the following described tract:

Commencing at the NW corner of the SW/4 NW/4 of Section 14, T16N, R22E, for the point of beginning. Thence S 89° 36' 37" E for a distance of 1321.50 feet; Thence S 00° 12' 55" W for a distance of 661.00 feet; Thence S 89° 41' 51" E for a distance of 1981.50 feet; Thence S 00° 12' 08" W for a distance of 660.10 feet; Thence N 89° 42' 30" W for a distance of 658.60 feet; Thence S 00° 11' 16" W for a distance of 500.85 feet; Thence N 57° 06' 08" W for a distance of 542.30 feet; Thence N 67° 34' 41" W for a distance of 257.90 feet; Thence N 84° 19' 50" W for a distance of 195.20 feet; Thence S 82° 11' 00" W for a distance of 279.50 feet; Thence N 52° 44' 18" W for a distance of 635.40 feet; Thence S 82° 47' 38" W for a distance of 378.50 feet; Thence S 86° 34' 14" W for a distance of 168.65 feet; Thence N 00° 14' 00" E for a distance of 726.30 feet; Thence S 89° 54' 15" W for a distance of 427.70 feet; Thence N 00° 11' 45" E for a distance of 411.10 feet; To the point of beginning, containing 63.579 acres, more or less;

Containing 126.421 acres, more or less;

and;

The SE/4 NE/4 SE/4 and all that part of the SW/4 NE/4 SE/4 and of the SE/4 NW/4 SE/4 lying South and East of the U.S. Highway 62, in Section 26, Township 16 North, Range 21 E IM, Cherokee County, Oklahoma, containing 19.15 acres, more or less, according to the U.S. Survey.

Upon information and belief, Park Hill Plants & Trees engages in the growth and harvesting of plants and trees upon its property, and utilizes fertilizers, pesticides, and herbicides within the IRW. This conduct is on-going and continuous. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the

Complaint (which is denied), then Park Hill Plants & Trees, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

25. Third Party Defendant, Greenleaf Nursery Co, Inc. is a corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Greenleaf Nursery is a commercial nursery located in Tahlequah, Oklahoma, more specifically identified as:

Two parcels of land in the S $\frac{1}{2}$ SE $\frac{1}{4}$  of Section 18 and the E $\frac{1}{2}$ NW $\frac{1}{4}$  of Section 19, T 15 N, R 23 E, of the Indian Meridian, in Cherokee County, Oklahoma, said parcels being parts of Tenkiller Ferry Lake Tracts D-157 and D-28 and more particularly described as:

**PARCEL NO. 1**

Beginning at the Southwest Corner of the SE $\frac{1}{4}$  of said Section 18; thence N 00° 04' 40" E, 331.45 feet; thence N 89° 48' 58" E, 660.36 feet; thence N 00° 07' 46" W, 330.08 feet; thence N 89° 46' 18" E, 660.90 feet; thence N 00° 08' 52" W, 330.07 feet; thence N 89° 45' 06" E, 330.20 feet; thence S 00° 10' 55" E, 494.91 feet; thence S 89° 45' 01" W, 660.92 feet; thence S 00° 09' 29" E, 164.97 feet; thence S 89° 45' 00" W, 165.31 feet; thence S 00° 08' 37" E, 330.38 feet; thence S 89° 43' 45" W, 826.95 feet, more or less, to the Point of Beginning. Containing 13.78 acres, more or less, and reserving a flowage easement over the approximately 5 acres lying below elevation 670 feet NGVD.

**PARCEL NO. 2**

Commencing at the Northeast Corner of the NW $\frac{1}{4}$  of said Section 19; thence S 00° 04' 40" W, 991.19 feet; thence S 89° 47' 55" W, 330.36 feet, more or less to the Point of Beginning; thence S 00° 00' 19" E, 659.97 feet; thence S 89° 43' 58" W, 330.53 feet; thence S 00° 00' 19" E, 139.37 feet, more or less, to the Easterly Right-of-Way line of Oklahoma State Highway No. 82; thence Northwesterly, along a 02°05'42" curve to the right, having a radius of 2734.79 feet, 675.40 feet; thence S 89° 56' 48" E, 154.06 feet; thence N 00° 01' 52" W, 331.20 feet; thence N 89° 47' 55" E, 661.66 feet, more or less, to the Point of Beginning; Containing 10.20 acres, more or less and reserving a flowage easement over the approximately 3 acres lying below 670 feet NGVD; and;

The NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 18, Township 15 North, Range 23 East; LESS AND EXCEPT an undivided  $\frac{1}{4}$  interest of the oil,

gas and other minerals, formerly reserved;  
and;

A piece, parcel or tract of land in the SE4 of the NE4 of the SE 4 of Section 18, Township 15 North, Range 23 East, more particularly described as follows, to wit: Beginning at a point on the East line of said Section 18 a distance of 1580 feet North of the Southeast Corner of said Section 18; thence West a distance of 270.0 feet, thence North a distance of 351, 12 feet, thence East a distance of 270.0 feet to the East line of said Section 18, thence South along the East line of said Section 18 a distance of 351.12 feet to the Point of Beginning, containing 2.18 acres, more or less;

and;

A tract of land in the E2 of SW4 of SW4 of NE4 of Section 18, Township 15 North, Range 23 East, more particularly described as follows: Beginning at the SW/Corner of said E2 SW4 SW4 NE4; thence N 00°05'48" E, 451.78 feet; thence S 89°55'35" E, 19.48 feet for a Point of Beginning; thence S 89°55'35" E, 60 feet; thence N 00°05'48" E, 210 feet; thence N 89°55'35" W, 60 feet; thence S 00°05'48" W, 210 feet to the Point of Beginning; LESS AND EXCEPT all of the oil, gas and other minerals; and subject to the right of ingress and egress across the West 15 feet thereof;

and;

A tract in the NE $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  and SE $\frac{1}{4}$  of Section 18, Township 15 North, Range 23 East, Cherokee County, more particularly described as beginning at a point 1257 feet North of the Southeast corner of said Section 18, thence North 161 feet, thence West 270 feet, thence South 161 feet, thence East 270 feet to the point of beginning, one acre more or less;

and;

The W2 of SW4 of SE4 of NW4, and the SE4 of SE4 of NW4, and the SE4 of SW4 of NE4, and the N2 of SW4 of Section 18, Township 15 North, Range 23 East, containing 105 acres, more or less;

and;

The E2 of the SW4 of the SE4 of NW4 of Section 18, Township 15 North, Range 23 East of the Indian Base and Meridian according to the U.S. Survey thereof.

Upon information and belief, Greenleaf Nursery engages in the growth and harvesting of plants and trees upon its property, and utilizes fertilizers, pesticides, and herbicides in the IRW. This conduct is on-going and continuous. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to

the Plaintiffs under their claims set forth in the Complaint (which is denied), then Greenleaf Nursery's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

26. Third Party Defendant, Northland Farms, LLC is a limited liability corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Northland Farms is a commercial nursery located in Cherokee County, Oklahoma, more specifically identified as:

Tract 1: Beginning at the NW Corner of the NE/4 of the SE/4 of the SW/4 of Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma; N 89°29'45"E, a distance of 661.01 feet to the NE Corner of the NE/4 SE/4 SW/4; thence S00°09'52"E on East line NE/4 SE/4 SW/4, a distance of 660.42 feet to the SE Corner of the NE/4 SE/4 SW/4; thence S 89°28'32"W on the South line of the NE/4 SE/4 SW/4, a distance of 150.00 feet more or less to the centerline of the Illinois River; thence Northwesterly on centerline of Illinois River to a point 475 feet South and 36 feet East of the NW Corner of said NE/4 SE/4 SW/4; thence N 00°09'26"W, a distance of 210.00 feet; thence S 85°20'00"W, a distance of 36.00 feet; thence N 00°09'26"W, a distance of 272.65 feet to the Point of Beginning; and;

Tract 2: Beginning at the SE Corner of the W/2 NE/4 SW/4 of Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma; thence N 00°09'26"W, on East line W/2 NE/4 SW/4, a distance of 660.19 feet to the NE Corner of the SW/4 NE/4 SW/4 of said Section 19; thence N 72°31'52"W, a distance of 20.44 feet; thence S 25°39'14"W, a distance of 355.06 feet; thence S 11°39'14"W, a distance of 631.36 feet; thence N 89°29'45"E, a distance of 139.83 feet; thence S 00°09'26"E, a distance of 150.00 feet; thence S 52°16'54"E, a distance of 111.12 feet; thence N 00°09'26"W, a distance of 210.00 feet; thence N 85°20'00"E, a distance of 76.00 feet; thence N 00°09'26"W, a distance of 272.65 feet to the Point of Beginning; and;

Tract 3: A tract of land lying in and being a part of Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma, more particularly described as: Beginning at the NE Corner of the NW/4 of the SW/4 of the NE/4 of said Section 19; thence S 00°10'49"E on East line NW/4 SW/4 NE/4, a distance of 660.45 feet to the SE Corner of the NW/4 SW/4 NE/4; thence N 89°25'42"E on North line SE/4 SW/4 NE/4, a distance of 660.27 feet to the NE Corner of the SE/4 SW/4 NE/4; thence S 00°11'45"E on

East line W/2 E/2 Section 19, a distance of 1321.17 feet to the SE Corner of the NE/4 NW/4 SE/4; thence S 89°27'17"W on South line N/2 NW/4 SE/4, a distance of 1321.27 feet to the SW Corner of the NW/4 NW/4 SE/4; thence N 00°09'52"W on West line NW/4 NW/4 SE/4, a distance of 660.42 feet to the center of Section 19; thence S 89°27'18"W on South line NW/4, a distance of 660.85 feet; thence N 01°10'16"W, a distance of 35.00 feet; thence N 88°57'02"E, a distance of 252.85 feet; thence N 12°26'34" E, a distance of 216.25 feet; thence N 08°39'10"E, a distance of 168.19 feet; thence N 11°27'20"E, a distance of 150.33 feet; thence N 37°20'44"W, a distance of 133.87 feet; thence N 09°47'38"W, a distance of 259.36 feet; thence N 19°51'37"W, a distance of 273.88 feet; thence N 02°55'09"W, a distance of 137.44 feet; thence N 89°25'34"E, a distance of 530.52 feet; thence N 89°24'07"E, a distance of 660.09 feet to the Point of Beginning; and;

Tract 4: Beginning at a point on the North line of the SE/4 of the NW/4 of Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma, a distance of 644.90 feet East of the NW Corner of the SE/4 of the NW/4 of said Section 19; thence S 00°38'59"E on Centerline of existing County Road, a distance of 748.29 feet; thence S 88°52'26"E, a distance of 363.90 feet; thence N 37°20'44"W, a distance of 133.87 feet; thence N 09°47'38"W, a distance of 259.36 feet; thence N 19°51'37"W, a distance of 273.88 feet; thence N 02°55'09"W, a distance of 137.44 feet; thence S 89°25'34"W, a distance of 146.95 feet to the Point of Beginning.

Upon information and belief, Northland Farms engages in the growth and harvesting of plants and trees upon its property, and utilizes fertilizers, pesticides, and herbicides in the IRW. This conduct is on-going and continuous. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Northland Farms' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

27. Third Party Defendant, William Langley owns property formerly known as "Lake Frances" located within the IRW, more specifically identified as:

All that part of Section 20, Township 19 North Range 26 East lying east of K.C.S. RR right-of-way and West and South of Lake Frances as it Now exists to an elevation of 909.2. Less and except the following tract:

All that Part of Section 20 lying North of a line beginning at the intersection of the K.C.S. RR right-of-way and the Lake access road in the NW SW NW 20-19-26 thence North Easterly along the center line of said access road approximately 300 feet to a point 20 feet west of the first road to the South, thence due South to the South line of the NW NW thence East to Lake Frances.

The property owned by William Langley was originally a man-made reservoir which was formed by the construction of a dam on the Illinois River. Because Lake Frances had been a reservoir, over time it accumulated large amounts of sediments, which contain some or all of the same constituents alleged in the Complaint. In the early 1990's the dam on Lake Frances was substantially destroyed and the lake was effectively drained. As a result, nutrient laden sediments which had accumulated in the bed of Lake Frances were released and continue to be released into the Illinois River. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Langley's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

28. Third Party Defendants, Ronald Lee and Linda S. Fidler own property located at Route 1, Box 215, Kansas, Oklahoma, more specifically identified as:

40 acres more or less located in the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of section thirty-five (35), township twenty North (20N), Range Twenty-four (24) E.I.M., together with all improvements located thereon.

Upon information and belief, Ronald and Linda Fidler rent segments of the property



above to various individuals who have built residences, including Fidlers Bend Farms & Trading Co., LLC. Ronald and Linda Fidler also operate a multi-party commercial septic system on the property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Ronald and Linda Fidler's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

29. Third Party Defendant, Fidlers Bend Farms & Trading Co., LLC is a limited liability corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Fidlers Bend Farms & Trading Co. is located in Cherokee County on property owned by Third Party Defendants, Ronald Lee and Linda S. Fidler. Upon information and belief, Fidlers Bend Farms & Trading Co.'s operations include the management of cabin rentals and the operation of a private sewage system on Third Party Defendants, Ronald Lee and Linda S. Fidler's property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Fidlers Bend Farms & Trading Co.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.



30. Third Party Defendant, Darrell Moss, has legal title to the property located at Rt. 2, Box 531, Westville, Oklahoma, more specifically identified as:

All that part of the S1/2 of NW 1/4 and all that part of the NW 1/4 of SW 1/4 of SE 1/4 lying North of Highway No. 62 right of way in Section 10, Township 17 North, Range 24 East;

and;

A tract of land in the S 1/2 of NW 1/4 of SE 1/4 of Section 10, Township 19 North, Range 24 East, described as follows: Beginning at the SE corner of said S 1/2 of NW 1/4 of SE 1/4; thence North 89 58'00" West a distance of 54.38 feet; thence North 07 08'14" West a distance of 288.41 feet to a point on the South line of Highway No. 62 right of way; thence Easterly along said South line along a non-tangent curve to the right having a radius of 676.78 feet (said curve subtended by a chord bearing South 89 14'29" East a distance of 90.37 feet) an arc distance of 90.44 feet to a point on the East line of said South half; thence South 00 01'46" West a distance of 285.01 feet to the point of beginning AND All that part of the S1/2 of NE1/4 of SE 1/4 lying South of Highway No. 62 right of way in Section 10, Township 17 North, Range 24 East.

Upon information and belief, Darrell Moss has engaged and continues to engage in gravel mining on the above property on or near the Baron Fork. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Darrell Moss' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

31. Third Party Defendant, Darryl Cates, has legal title to the property located at Rt. 2, Box 507, Westville, Oklahoma, more specifically identified as:

The South One-Half (S/2) of the Southwest Quarter (SW/4) of the Northeast Quarter (NE/4) of Section Eighteen (18), Township (17) North, Range Twenty-Five (25) East, containing Twenty (20) acres, more or less; and;

The NW1/4 and W1/2 NW1/4 NE1/4 and NW1/4 SW1/4 NE1/4 of

Section 16, Township 17 North, Range 25 East, Adair County, Oklahoma;  
and;  
The N1/2 LESS the NW1/4 NE1/4 NW1/4 and LESS part of the S1/2 S1/2  
NW1/4 lying and being South of creek in Section 17, Township 17 North,  
Range 25 East, Adair County, Oklahoma;  
and;  
The SE1/4 SE1/4 SE1/4 of Section 7, Township 17 North, Range 25 East,  
Adair County, Oklahoma.

Upon information and belief, Darryl Cates has engaged in the unlawful gravel mining on the property within the IRW. More specifically, Darryl Cates has been involved in the unlawful dredging within the Baron Fork Creek bed and construction of an illegal dam across the Baron Fork. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Darryl Cates' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

32. Third Party Defendant, Mildred Rayls Woodward has legal title to the property located at Rt. 4, Box 474, Tahlequah, Oklahoma, more specifically identified as:

A tract of land lying in the NE4 NE4 of Section 26, Township 17 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma; more particularly described as: Commencing at the Northeast corner of the NE4 NE4 said Section 26; thence N89 55'18"W along north line NE4 NE4 a distance of 723.05 feet to the Point of Beginning; thence S4 31'25"W a distance of 148.21 feet; thence N87 00'33"W a distance of 149.97 feet; thence N23 05'08"W a distance of 152.43 feet to the North line of the NE4 NE4; thence south 89 55'18" E along said north line a distance of 221.24 feet to the point of beginning. Tract contains 0.61 acre more or less.  
and;

A tract of land lying in the West 1/2 of the SE4 of the SE4 of Section 23, Township 17 North, Range 22 East of the Indian Base and Meridian,

Cherokee County, Oklahoma; more particularly described as: Commencing at the SE Corner of said SE4 Section 23, thence N89 55'18"W along south line SE4 a distance of 723.05 feet to the Point of Beginning; thence continuing N89 55'18" W along said South line a distance of 221.24 feet; thence N23 05'08"W a distance of 231.17 feet; thence N4 36'59" W a distance of 264.45 feet; thence N41 52'08"E a distance of 329.00 feet; thence S85 07'35"E a distance of 170.12 feet; thence S4 31'25"W a distance of 709.30 feet to the Point of Beginning. Tract contains 4.95 Acres more or less.

Upon information and belief, Mildred Rayls Woodward has engaged and continues to engage in gravel mining on the above property on or near the Baron Fork. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Mildred Rayls Woodward's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to her liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

33. Third Party Defendant, Ancil Maggard has legal title in the property located in within the IRW, more specifically identified as:

NW1/4 of SW1/4 and N1/2 of SW1/4 of SW1/4 of NE1/4 of Section 33, Township 18 North, Range 24 East;  
and;  
A tract of land located in the NW 1/4 of SW 1/4 of NE 1/4 of Section 33, Township 18 North, Range 24 East, Adair County, Oklahoma, being more particularly described as follows: to-wit: Beginning at a point 17.5 feet south to the NE Corner of said NW 1/4 of SW 1/4 of NE 1/4 thence West for a distance of 210 feet; thence South for a distance of 192.50 feet; thence East for a distance of 210 feet; thence North for a distance of 192.50 feet to the point of beginning.

Upon information and belief, Ancil Maggard permits Bryan Sand & Gravel, Inc. to operate on four acres of his property. Bryan Sand & Gravel's operations on the property

include but are not limited to gravel mining on the property and within the bed of Tyner Creek within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Bryan Sand & Gravel, Inc.'s conduct and operations, which has been permitted on the property by Ancil Maggard and which results in the release of some or all of the same constituents into the IRW, give rise to her liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

34. Third Party Defendant, Bryan Sand & Gravel, Inc. is a corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Bryan Sand & Gravel operates a mining facility on the property of Third Party Defendant, Ancil Maggard. Bryan Sand & Gravel, Inc.'s operations include but are not limited the mining of gravel on the property of Third Party Defendant, Ancil Maggard and in the bed of Tyner Creek. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Bryan Sand & Gravel, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

35. Third Party Defendant, Jesse T. Proctor has legal title to the property located in Sequoyah County, Oklahoma, more specifically identified as:

The W 1/2 of the SE 1/4 SW 1/4 NW 1/4 Section 29, Township 12 North,  
Range 26 East Sequoyah County, Oklahoma, containing 5 Acres M/L.

Upon information and belief, Jesse T. Proctor has engaged and continues to engage in dirt mining on the above property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Jesse T. Proctor's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

36. Third Party Defendants, Lena and Garner Garrison, have a legal interest in property located in Sequoyah County, Oklahoma within the IRW, more specifically identified as:

The Southeast Quarter (SE/4) of the Northwest Quarter (NW/4) and the North One-Half (N/2) of the Northeast Quarter (NE/4) of the Southwest Quarter (SW/4) and the Northeast Quarter (NE/4) of the Southwest Quarter (SW/4) of the Northwest Quarter (NW/4) of Section 21, Township 13 North, Range 21 East in Sequoyah County, Oklahoma

Upon information and belief, Lena and Garner Garrison lease the above property to Brazil Creek Minerals, Inc. Brazil Creek Minerals, Inc.'s operations include but are not limited to limestone mining at a facility entitled Gore #1, with a permit from the Oklahoma Department of Mines No. LE 1365 in the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Brazil Creek Minerals, Inc.'s conduct and operations, which has been

permitted on the property by Lena and Garner Garrison, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

37. Third Party Defendant, Brazil Creek Minerals, Inc. is a corporation under the laws of Oklahoma, and whose principal place of business is in Fort Smith, Arkansas. Brazil Creek Minerals owns and operates a facility located in Sequoyah County, Oklahoma, more specifically identified as:

N 1/2, SE 1/4, Section 20 and the S1/2 of NW 1/4 and the NW1/4, NW1/4, SE 1/4 Section 21, Township13N, Range 21 E of the Indian Base Meridian, Sequoyah County, Oklahoma, or 4 miles north-northwest of the town of Gore;

and;

The South half (S/2) of the Northeast Quarter (NE/4) of the Southwest Quarter (SW/4) of the Section Twenty-One (21), Township (13) North, Range Twenty-One (21) East;

and;

Northwest Quarter (NW1/4) of the Northwest Quarter (NW1/4) of the Southeast Quarter (SE1/4) of Section Twenty-one (21), Township Thirteen (13) North, Range Twenty-one (21) East of the Indian Base and Meridian, Sequoyah County, Oklahoma.

Brazil Creek Minerals, Inc. also leases the above described property from Lena and Garner Garrison and John and/or Jane Does No. 1 through 5. Brazil Creek Minerals, Inc.'s operations include but are not limited to limestone mining at a facility entitled Gore #1 and #2, with a permit from the Oklahoma Department of Mines No. LE 1365 and LE 1398 in the IRW. Brazil Creek Minerals, Inc. also has a NPDES permit OK0041106. Brazil Creek Minerals, Inc. discharges mine dewatering waste, storm water run-off and settled storm water runoff into the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the

Plaintiffs under their claims set forth in the Complaint (which is denied), then Brazil Creek Minerals, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

38. Third Party Defendant, Julie A. and John E. Cotherman, have a legal interest in property located in Sequoyah County, Oklahoma within the IRW, more specifically identified as:

A Part of the E1/2 SW1/4 Section 28, Township 13 North, Range 21 East, Sequoyah County, Oklahoma, Being more particularly described as follows: Commencing at the Southeast corner of the W1/2 SW1/4 SE1/4 of said Section 28; thence West 892.88 feet to the point of beginning; thence West along the south line of said Section 28 1,092 feet; thence North along the West line of the E1/2 SW1/4 1,980 feet, thence East along the North line of the E1/2 SW1/4 1,092 feet; thence South 1,980 feet to the point of beginning.

Upon information and belief, Julie A. and John E. Cotherman lease the above property to T & M Sand and Gravel, Inc. T & M Sand and Gravel, Inc.'s operations include but are not limited to sand and gravel mining at a facility entitled Watt's Pit with an Oklahoma Department of Mines Permit No. LE 1666 in the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then T & M Sand and Gravel, Inc.'s conduct and operations, which has been permitted on the property by Julie A. and John E. Cotherman, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

39. Third Party Defendant, Helen Watts is the Trustee of the Helen Watts Revocable Trust, which has a legal interest in property located in Sequoyah County, more specifically identified as:

A tract of land located in Section 28, Township 13 North, Range 21 East, Sequoyah County, Oklahoma, described as commencing 1320 feet West of the Southwest corner of said Section 28 for a point of beginning; thence West along said section line 660 feet; thence North 990 feet; thence East 1320 feet; thence South 330 feet; thence West 660 feet; thence South 660 feet to the point of beginning.

Upon information and belief, the Helen Watts Revocable Trust leases the above property to T & M Sand and Gravel, Inc. T & M Sand and Gravel, Inc.'s operations include but are not limited to sand and gravel mining at a facility entitled Watt's Pit with an Oklahoma Department of Mines Permit No. LE 1666 in the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then T & M Sand and Gravel, Inc.'s conduct and operations, which has been permitted on the property by the Helen Watts Revocable Trust, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

40. Third Party Defendant, Simp Watts is the Trustee of the Simp Watts Revocable Trust, which has a legal interest in Sequoyah County, more specifically identified as:

A tract of land located in Section 28, Township 13 North, Range 21 East, Sequoyah County, Oklahoma, described as commencing 1320 feet West of the Southwest corner of said Section 28 for a point of beginning; thence West along said section line 660 feet; thence North 990 feet; thence East



1320 feet; thence South 330 feet; thence West 660 feet; thence South 660 feet to the point of beginning.

Upon information and belief, the Simp Watts Revocable Trust leases the above property to T & M Sand and Gravel, Inc. T & M Sand and Gravel, Inc.'s operations include but are not limited to sand and gravel mining at a facility entitled Watt's Pit with an Oklahoma Department of Mines Permit No. LE 1666 in the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then T & M Sand and Gravel, Inc.'s conduct and operations, which has been permitted by the Simp Watts Revocable Trust, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

41. Third Party Defendant, T & M Sand and Gravel, Inc., is a corporation under the laws of Oklahoma, and whose principal place of business is in Gore, Oklahoma. T & M Sand and Gravel leases a facility located in Sequoyah County, Oklahoma, more specifically identified in Paragraph No. 40. T & M Sand and Gravel's activities on its property and the property of Julie A. and John E. Cotherman and the Helen Watts Revocable Trust and the Simp Watts Revocable Trust include but are not limited to the mining of limestone. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then T & M Sand and Gravel, Inc.'s conduct and operations, which results in the release of some or

all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

42. Third Party Defendant, Hoby Ferrell, has a legal interest in the property located in the IRW, more specifically identified as:

A tract of land lying in and being a part of the W 1/2 of Section 20, Township 19 North, Range 24 East, Adair County, Oklahoma, more particularly described as Beginning at the SW corner of the NW 1/4 of Section 20, thence N 00 24'33" W on West Line NW 1/4, a distance of 104.91 feet; to the Easterly Line of Block 23, Bluff View Area, Flint Ridge No. 3, thence N 17 54'45" E, a distance of 168.73 feet to the point of curvature of a tangent curve, concave to the west, having a radius of 525.00 feet and a central angle of 04 59'07"; thence northerly along said curve, a distance of 45.68 feet; thence S 70 25'44" E, a distance of 202.42 feet; thence N 32 26'52" E, a distance of 754.85 feet; thence N 22 37'12" E, a distance of 585.00 feet; thence S 49 41'09" E, a distance of 216.39 feet; thence N 51 39'16" E, a distance of 427.14 feet; thence N 19 10'44"E, a distance of 121.76 feet; thence N 75 57'50"E, a distance of 123.69 feet; thence N 32 12'39" E a distance of 590.95 feet; thence N 47 24'44" E, a distance of 650.33 feet to the North line NW1/4; thence S 89 46'05" E on North Line NW 1/4, a distance of 300.79 feet, thence S 32 02'03" W a distance of 2064.38 feet; thence S 51 16'10" W, a distance of 296.50 feet; thence S 25 48'37" W, a distance of 1872.45 feet; thence S 57 08'44" W, a distance of 600.16 feet to the West Line SW 1/4 of said Section 20; thence N 00 18'35" E on West Line SW 1/4 a distance of 1319.27 feet to the POINT OF BEGINNING.

Upon information and belief, Hoby Ferrell permitted Greater Tulsa Investments, LLC to remove vegetation, gravel and dirt along the river banks of the Illinois on his property. Hoby Ferrell was fined by the Oklahoma Scenic River Commission. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Greater Tulsa Investments, Inc.'s conduct and operations, which has been permitted on the property by Hoby Ferrell, and which results in the release of some or all

of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

43. Third Party Defendant, Greater Tulsa Investments, LLC, is a limited liability corporation under the laws of Oklahoma, and has its principal place of business in the Oklahoma. Upon information and belief Greater Tulsa Investments removed vegetation, gravel and dirt along the river banks of the Illinois on Third Party Defendant, Hoby Ferrell's property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Greater Tulsa Investments, LLC's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

44. Third Party Defendant, the Wauhilla Club owns property located 2011 S. 576 Rd., Tahlequah, Oklahoma in the IRW, more specifically identified as:

Cherokee County, State of Oklahoma, to wit: The East Half (E/2) of the Northeast Quarter (NE/4) of the Northeast Quarter (NE/4) of Section Nine (9), Township Sixteen (16) North, Range Twenty-three (23) East and beginning at the Northwest corner of the South Half (S/2) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of Section Nine (9), Township Sixteen (16) North, Range Twenty-three (23) East; thence East along the North line of the South Half (S/2) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) and the Southwest Quarter (SW/4) of the Northwest Quarter (NW/4) of the Northeast Quarter (NE/4) of said Section Nine (9) a distance of Fourteen Hundred and Thirty (1430) feet; thence South Three Hundred and Thirty (330) feet; thence in a Northwesterly direction to a point on the West line of the South Half (S/2) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of said Section Nine (9) fifty (50) feet South of the Northwest corner of the South Half (S/2) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of said Section Nine (9); thence North Fifty (50) feet; along the

West line of the South Half (S/2) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of said Section Nine (9), to the point of beginning;

and;

N2 of NE4 of NW4 of Section 9-16-23; SW4 of SE4 of SW4 of Section 4-16-23; containing 30 acres;

and;

NE of NE4 of NE4 and SE4 of NW4 of NE4 of the NW4 of NW4 of NE4, Sec 9, Twp 16 N, Range 23 E;

and;

A tract or parcel of land located in the S/2 of SW/2 of SE/4 of Sec. 4, Twp. 16N, Rge. 23 East described as follows: Beginning at the southeast corner of the southwest quarter of the southeast quarter of said Section 4 Township 16 North and Range 23 East of the Indian Base and Meridian, running thence north 30 rods, thence southwesterly on a direct line to the southwest corner of the southeast quarter, thence east to the point of beginning, containing 8.4 acres, more or less, according to the survey thereof;

and;

North half of the Southeast quarter of the Southwest quarter and the Southeast quarter of the Southeast quarter of the Southwest quarter of Section 4, Township 16 North, Range 23 East of the Indian Base and Meridian, containing 30 acres, more or less, according to the United States Survey;

and;

NW4 of SE4 of SE4 4-16-23 containing 10 acres; and SW4 of E4 of SE4 Sec 4 Twp 16 N Range 23 E containing [unreadable] Acres; and SE4 of SE4 of SE4 Sec 4 Twp 16N Range 23E; and SE4 of SE4 of SE4 Sec 4 Twp 16N Range 23 E; and NE4 of SE4 of SE4 Sec 4 Twp 16N Range 23 E.

Upon information and belief, Wauhilla Club has engaged in unlawful gravel mining on the property. More specifically, Wauhilla Club has been involved in the unlawful dredging within the Baron Fork Creek bed and construction of an illegal dam across the Baron Fork. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Wauhilla Club's conduct and operations, which results in the release of some or all of the same constituents into the

IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

45. Third Party Defendant, One Degree Lawn Care and Landscaping is a corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. One Degree Lawn Care and Landscaping is located at 16851 N. 523 Rd., Tahlequah, Oklahoma. Upon information and belief, One Degree Lawn Care and Landscaping provides lawn care services, including but not limited to the application of fertilizers, herbicides and other chemicals to lawns within the IRW. One Degree Lawn Care and Landscaping has a license from the State of Oklahoma for the application of ornamental and turf fertilizer. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then One Degree Lawn Care's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

46. Third Party Defendant, John and/or Jane Does No. 6 through 10, are the owner(s)/operator(s) of Big John's, which is located in Stilwell, Oklahoma. Upon information and belief, Big John's operations within the IRW include but are not limited to the application of fertilizers, herbicides and other chemicals to lawns within the IRW. Big John's has a license from the State of Oklahoma to apply liquid fertilizer for ornamental and turf grass. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW.

Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then John and/or Jane Does No. 6 through 10 and Big John's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

47. Third Party Defendant, Pro Lawn Services, Inc., is a suspended corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Pro Lawn Services, Inc. is located at 17952 S. Muskogee, Tahlequah, Oklahoma. Upon information and belief, Pro Lawn Services, Inc. provides lawn care services, including but not limited to the application of fertilizers, herbicides and other chemicals to lawns within the IRW. Pro Lawn Services, Inc. has a license from the State of Oklahoma for the application of ornamental and turf fertilizer. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Pro Lawn Services, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

48. Third Party Defendant, Thornton Lawn & Exterminating, Inc. is a corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Thornton Lawn & Exterminating, Inc. is located at 1830 N. Vinita, Tahlequah, Oklahoma. Upon information and belief, Thornton Lawn & Exterminating, Inc. provides lawn care and exterminating services, including but not limited to the

application of fertilizers, herbicides and other chemicals to lawns and homes within the IRW. Thornton Lawn & Exterminating, Inc. has a license from the State of Oklahoma for the application of ornamental and turf fertilizer. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Thornton Lawn & Exterminating, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

49. Third Party Defendant, Spring Hollow Feed Mill, Inc. is a corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Spring Hollow Feed Mill, Inc. is located at 13243 Killabrew Rd., Hulbert, Oklahoma. Upon information and belief, Spring Hollow Feed Mill, Inc.'s operations include but are not limited to the application of dry fertilizers, the sell of fertilizers, herbicides and other chemicals to companies and individuals who apply the same to their property within the IRW. Spring Hollow Feed Mills, Inc. has a license from the State of Oklahoma to sale fertilizers, and as an applicator of dry fertilizer. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Spring Hollow Feed Mill, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

50. Third Party Defendant, John Doe(s) 11 through 15, is/are the owner(s)/operator(s) of Turf Professionals which is located at 411 N. 7<sup>th</sup> Street, Jay, Oklahoma. Upon information and belief, Turf Professional's operations within the IRW include but are not limited to the blending of fertilizers and the application of fertilizers, herbicides and other chemicals to properties within the IRW. Turf Professionals has a license from the State of Oklahoma to blend fertilizers, apply Ammonium Nitrate, apply custom blend, dry and liquid fertilizers for ornamental and turf grass. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Turf Professionals' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

51. Third Party Defendant, Cherry Springs Golf Club, Inc. is a corporation under the laws of Oklahoma, and has its principal place of business in the State of Oklahoma. Cherry Springs Golf Club owns and operates a golf course located at County Road 05834, Tahlequah, Oklahoma in the IRW, more specifically identified as:

A tract of land lying in and being part of the SW $\frac{1}{4}$  NW $\frac{1}{4}$  of Section 10, Twp. 16 N, Rge. 22 E, Cherokee County, Oklahoma, more particularly described as follows, to-wit: Beginning at a point on the West boundary and 281.86 feet North of the Southwest corner of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ ; thence N 0°-15'-36" E, along the West boundary of said SW $\frac{1}{4}$  NW $\frac{1}{4}$ , 128.14 feet; thence N 89°-46'-08" E, 1274.93 feet; thence S 0°-15'-36" W, 1.84 feet; thence S 58°-26'-06" W, 464.06 feet; thence N 49°-12'-29" W, 342.50 feet; thence S 70°-34'-41" W, 425.11 feet; thence N 82°-27'-54" W, 221.78 feet to the Point of Beginning. Containing 3.42 acres, more or less; and;



The NE4 of NE4 and the E2 of SE4 of NE4 and the NW4 of SE4 of NE4 and the E2 of SW4 of NE4 and the NE4 of SW4 of NE4 of Section 9, Township 16, North, Range 22 East.

Upon information and belief, Third Party Defendant, Cherry Springs Golf Club systematically applies fertilizers and other chemicals to its golf course within the tributaries of the Illinois River which results in the release of phosphorous and other constituents into the IRW. Moreover, Cherry Springs Golf Course also has three sewage lagoons which capture a portion of the runoff from the fairways and drain into a tributary of the Illinois River. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Cherry Springs Golf Club's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

52. Third Party Defendant, Lake Country Resort, Inc., a suspended corporation under the laws of Oklahoma, and has its principal place of business in the State of Oklahoma. Lake Country Resort, Inc. owns and operates Tenkiller Golf Club, a golf course located at Rt. 1, Box 189, Vian, Oklahoma in the IRW. Upon information and belief, Tenkiller Golf Club systematically applies fertilizers and other chemicals to its golf course within the tributaries of the Illinois River which results in the release of phosphorous and other constituents into the IRW. Moreover, Tenkiller Golf Club also has sewage lagoons which capture a portion of the runoff from the fairways and drain into a tributary of the Illinois River. The operations and activities described above have

and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Tenkiller Golf Club and Lake Country Resort, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

53. Third Party Defendant, the Millie Seratt Trust, is the owner of property located at 17110 N. Cary Lane, Tahlequah, Oklahoma, more specifically identified as:

The NW4 of SW4 and N2 of SW4 and SW4 of SW4 of Section 20, Township 17 North, Range 23 East; and

The NW4 of the NW4 of the NW4 of Section 29, Township 17 North, Range 23 East and the NE4 of the NE4 of Section 30, Township 17 North, Range 23 East, LESS AND ESCEPT the following described tract of land: Commencing at the SE Corner of the NE4 of the NE4 of Section 30, Township 17 North, Range 23 East, Cherokee County, Oklahoma, thence: N00°02'04"W, 571.00 feet; thence S89°44'22"W, 30.00 feet; for the true point of beginning; thence S89°44'22"W for a distance of 199.47 feet; thence N18°05'20"W for a distance of 75.00 feet; thence N26°10'45"E for a distance of 197.00 feet; thence N89°44'22"E for a distance of 247.32 feet; thence S45°40'50"W for a distance of 155.47 feet; thence S00°02'04"E for a distance of 140.00 feet; to the true point of beginning containing 1.210 acres, more or less, subject to all easements of record; and;

The N2 of NW4 of NE4 and N2 of NE4 of NW4 of Section 30, Township 17 North, Range 23 East; and The S2 of the NW4 of the NE4 and the SE4 of the NW4 and the S2 of the NE4 of the NW4 and Lot 1 in Section 30, Township 17 North, Range 23 East, Cherokee County, Oklahoma; and

The N2 of Lot 2 in Section 30, Township 17 North, Range 23 East, Cherokee County, Oklahoma, LESS AND EXCEPT a tract of land situate in the N2 of Lot 2 of Section 30, Township 17 North, Range 23 East, more particularly described as follows: Beginning at the Southwest Corner of the N2 of Lot 2 of Section 30, Township 17 North, Range 23 East; thence East along the South Boundary of said Lot 2 to the steep decline of the hill there situate; thence Northwest along said steep decline to a point on the West boundary of said Lot 2; thence South to the point of beginning; and A part of the SW4 of the NE4 of Section 30, Township 17 North, Range 23 East of the Indian Base and Meridian, Cherokee County, Oklahoma, described as follows: Beginning at a point 557.04 feet N00°00'02"W of

the Southeast Corner of the SW4 of the NE4; thence S67°47'59"W for a distance of 159.24 feet; thence S60°28'41"W for a distance of 242.66 feet; thence S81°18'56"W for a distance of 344.13 feet; thence S47°07'49"E for a distance of 216.03 feet; thence S32°52'01"E 172.80 feet; thence S41°37'56"E for a distance of 46.92 feet to a point on the South line of the SW4 of the NE4; thence West to the Southwest Corner of said SW4 of the NE4; thence North along the West line to the Northwest Corner of said SW4 of the NE4; thence East along the North line of said SW4 of the NE4 to the Northeast Corner thereof; thence South along the East boundary of said SW4 of the NE4 to the point of beginning; Cherokee County, Oklahoma;

LESS AND EXCEPT the following described tract of land conveyed to Mark Seratt and Eileen Seratt, Husband and Wife, by Warranty Deed, dated April 9, 1997, which is recorded in Book 579 at Page 313 of the records of the Cherokee County Clerk: Commencing at the Southeast Corner of the NE4 of the NE4 of Section 30, Township 17 North, Range 23 East, Cherokee County, Oklahoma, thence N00°01'04"W, 741.27 feet; thence N45°44'22"W, for a distance of 237.92 feet.

As the owner of the property, the Millie Seratt Trust has failed to fence cattle out of the Illinois River, and has also permitted those cattle to graze and deposit manure on the above property and in the Illinois River. Moreover, Millie Seratt Trust has failed to maintain proper riparian buffers along the Illinois River which in turn has created serious and systematic bank erosion. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Millie Seratt Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

54. Third Party Defendant, Illinois River Ranch Recreational Vehicle Park Property Owners Association is a non-profit corporation under the laws of Oklahoma. Illinois River Ranch Recreational Vehicle Park Property Owners Association operates the

Illinois River Ranch Recreational Vehicle Park within the IRW. The Illinois River Ranch Recreational Vehicle Park is located on County Road 07426 in Proctor, Oklahoma. The Illinois River Ranch Recreational Vehicle Park's operations include an RV park, private sewage system, a swimming pool and hay meadow. Upon information and belief, Illinois River Ranch Recreational Vehicle Park also systematically applies amounts of fertilizer and chemicals on its property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Illinois River Ranch Recreational Vehicle Park's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

55. Third Party Defendant, Illinois River Ranch Property Owners Association is a non-profit corporation under the laws of Oklahoma. Illinois River Ranch Property Owners Association operates the Illinois River Ranch within the IRW. The Illinois River Ranch is located on County Road 07426 in Proctor, Oklahoma, more specifically identified as:

A tract of land lying in Section 19 and Section 30, Township 19 North, Range 24 East of the Indian Base and Meridian, situated in the County of Adair, State of Oklahoma, more particularly described as follows:  
Commencing at the Northeast Corner of said Section 30 and thence N 89° 59' 22" W along the North Line of said Section for a distance of 1394.27 feet; thence S 18° 18' 53" W for a distance of 54.01 feet to the point of beginning; thence S 64° 48' 38" E for a distance of 185.74 feet to the center of the Illinois River; thence S 22° 03' 23" W along said centerline for a distance of 758.78 feet; thence S 28° 52' 04" W along said centerline for a distance of 203.51 feet; thence N 78° 56' 26" for a distance of 417.47 feet; thence S 80° 23' 18" W for a distance of 640.98 feet; thence N 59° 06' 47" W for a distance of 276.66 feet; thence N 58° 09' 47" W for a

distance of 304.45 feet; thence S 00 46'45" E for a distance of 551.70 feet to the center of the Illinois River; thence N 17 55'29" W along said centerline for a distance of 89.80 feet; thence N 00 46'45" W for a distance of 1132.63 feet; thence S 89 59'22" E for a distance of 1291.32 feet; thence N 62 37'46" E for a distance of 255.18 feet; thence N 74 27'16" E for a distance of 144.73 feet; thence N 20 51'08" E for a distance of 178.09 feet to the South right-of-way of county road; thence S 75 58'55" E along said South right-of-way for a distance of 40.29 feet; thence S 20 51'08" W for a distance of 279.62 feet; thence along a curve to the left having a radius of 25.00 feet for a distance of 24.29 feet thence S 34 48'38" E for a distance of 104.72 feet; thence along a curve to the left having a radius of 25.00 feet for a distance of 29.97 feet; thence N 76 30'18" E for a distance of 142.47 feet to the point of beginning. Above described tract contains 42.1 acres more or less;

and;

A description of a tract of land located in Section 30, Township 19 North, Range 24 East, of the Indian Base and Meridian, Adair County, Oklahoma, better described as:

Commencing at the Northeast Corner of Section 30, Township 19 North, Range 24 East, of the Indian Base and Meridian, Adair County, Oklahoma, thence South for a distance of 3449.94 feet, thence West for a distance of 2001.75 feet to the Point of Beginning, thence N 83 12'02" W along the North edge of a County Road for a distance of 261.84 feet, thence N 70 09' 00" W along said North edge of a County Road for a distance of 294.50 feet, thence N 54 22' 41" E for a distance of 394.89 feet, thence S 68 47' 50" E for a distance of 124.42 feet, thence S 17 33' 37" E for a distance of 331.45 feet to the Point of Beginning. Said parcel contains 2.47 acres;

and;

Tract B, Block 4, Illinois River Ranch No. 1, a subdivision of Adair County, Oklahoma, according to the recorded plat thereof;

and;

A tract of land lying in Section 30, Township 19 North, Range 24 East, of the Indian Meridian, in Adair County, Oklahoma, better described as follows: Commencing at the NE Corner of said Section 30, thence South for a distance of 1832.60 feet; thence West for a distance of 1633.94 feet to the point of beginning; thence S 14 38'59" W for a distance of 147.30 feet; thence S 88 24'55" W for a distance of 320.93 feet; thence N 76 52'45" W for a distance of 477.82 feet; thence N 48 36'46" W for a distance of 151.10 feet; thence N 41 23'14" E for a distance of 150.00 feet more or less to the center of the Illinois River; thence meandering Eastwardly along said center to a point beginning being N 51 40'53" W from the point of beginning; thence S 51 40'53" E for a distance of 307.00 feet more or less to the point of beginning. The above described property contains 4.4 acres, more or less;

and;

A tract of land lying in Sections 30 and 31, T19N, R24E in Adair County, Oklahoma, more particularly described as follows: Beginning at the Southeast Corner of Section 31, T19N, R24E, Adair County, Oklahoma, Thence S89° 36' 34" W for a distance of 5396.56 feet; Thence N0° [sic.] 10' 04" W for a distance of 8614.35 feet; Thence S 89° 51' 47" E for a distance of 655.70 feet; Thence N 0° 09' 33" W for a distance of 622.16 feet; Thence S 89° 49' 14" E for a distance of 735.00 feet; Thence S 0° 10' 46" W for a distance of 215.00 feet; Thence S 55° 57' 12" E for a distance of 838.60 feet; Thence S 6° 13' 04" W for a distance of 149.57 feet; Thence S 30° 00' 00" E for a distance of 50.00 feet; Thence 142.6 feet along a curve to the right having a radius of 100.00 feet; Thence S 38° 17' 55" E for a distance of 246.42 feet; Thence S 7° 19' 35" W for a distance of 705.76 feet; Thence S 27° 37' 16" E for a distance of 485.31 feet; Thence S 72° 08' 32" E for a distance of 766.84 feet; Thence N 89° 41' 30" E for a distance of 50.00 feet; Thence S 0° 18' 30" E for a distance of 193.52 feet; Thence N 89° 49' 46" E for a distance of 165.30 feet; Thence S 0° 19' 09" E for a distance of 1804.10 feet; Thence S 89° 12' 10" E for a distance of 144.75 feet; Thence N 67° 37' 55" E for a distance of 150.57 feet; Thence N 42° 21' 53" E for a distance of 106.58 feet; Thence N 57° 31' 07" E for a distance of 91.11 feet; Thence N 48° 17' 58" E for a distance of 226.19 feet; Thence N 51° 00' 29" E for a distance of 217.07 feet; Thence N 73° 34' 04" E for a distance of 160.88 feet; Thence S 0° 38' 00" E for a distance of 551.91 feet; Thence S 10° 46' 29" E for a distance of 204.23 feet; Thence S 55° 24' 30" E for a distance of 236.52 feet; Thence S 82° 03' 30" E for a distance of 209.03 feet; Thence S 58° 12' 12" E for a distance of 387.41 feet; Thence S 46° 24' 59" E for a distance of 175.74 feet; Thence S 0° 25' 37" E for a distance of 4054.68 feet; To the Southeast corner of said Section 31 and the Point of Beginning. Said parcel contains 848.26 Acres, more or less.

and;

Adair County, Township 19 North, Range 24 East

W/2 SW/4, W/2 S/2 E/2 SE/4 SW/4, SW Diagonal Half of W/2 SW/4 SE/4 NE/4 SW/4 and W/2 E/2 SW/4 LESS a tract beginning at the Northeast corner of the NW/4 NE/4 SW/4 thence West 132 feet, thence South 990 feet, thence East 132 feet, thence North 990 feet to the Point of Beginning all in Section 29;

SE/4 SE/4 AND S/2 NE/4 SE/4 and East  $\frac{3}{4}$  of E/2 of SW/4 SE/4 and SE/4 NW/4 SE/4 lying SE of the center line of the now existing County Road all in Section 30;

All that part of the NE/4 NE/4 and N/2 N2/4 NE/4 lying North and East of the center line of the now existing ridge road running primarily Southeast and Northwest through said tract in Section 31;

W/2 NW/4 and W/2 NE/4 NW/4 and the N/2 NW/4 SW/4 all in Section 32; CONTAINING APPROXIMATELY 349.50 ACRES MORE OR LESS. Less and except all minerals.

The Illinois River Ranch's operations include but are not limited to a private sewage system. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Illinois River Ranch Property Owners Association's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

56. Third Party Defendant, Flint Ridge Property Owners Association is a non-profit corporation under the laws of Oklahoma. Flint Ridge Property Owners Association has legal title to and operates the Flint Ridge RV Park #1 and #2, within the IRW. The property operated by the Flint Ridge Property Owners Association is more specifically identified as:

This is a description of a tract of land lying in Section 25, Township 20 North, Range 24 East of the Indian Base and Meridian, situated in the County of Delaware, State of Oklahoma. More particularly described as follows:

Commencing at the East Quarter corner of Section 25, Thence N 0° 02' 24" E along the East Line of Said Section 25, a distance of 660.07 feet, thence N 89° 43' 13" W along the South Line of the N/2, S/2, N/2 and the Northerly R/W Line of State Highway 33, and the point of beginning, thence N 12° 46' 58" E for a distance of 1320.42 feet; thence 89° 41' 04" W for a distance of 540.50 feet to the center line of Flint Creek, thence S 29° 56' 09" W along the center line of Flint Creek, thence S 29° 56' 09" W along the center line of Flint Creek a distance of 782.20 feet, to a point on the Northerly R/W Line of State Highway 33, thence S 46° 11' 01" E along said R/W Line for a distance of 885.14 feet to the Point of Beginning. Said Parcel contains 15.7 acres, more or less;

and;

This is a description of a tract of land lying in Sections 25 and 26 Township 20 North, Range 24 East of the Indian Base and Meridian, Situated in the County of Delaware, State of Oklahoma. Beginning at The East Quarter Corner of Said Section 24, thence S 88° 05' 42" W along the



South Line of the Northeast Quarter for a distance of 1956.12 feet, thence N 21 44'16" E for a distance of 433.75 feet, thence N 27 41'21" E for a distance of 224.14 feet, thence along a curve to the right having a radius of 500 feet for a distance of 258.70 feet, thence N 57 20'01" E for a distance of 421.05 feet, thence along a curve to the right having a radius of 1200.00 feet for a distance of 87.00 feet, thence N 61 29' 16" E for a distance of 685.66 feet to the point on the North Line of the South Half of the Northeast Quarter, thence along said North Line S 89 42'26" E for a distance of 486.16 feet to a point on the East Line of Section 26, thence along said East Line S 00 01'34" W for a distance of 660.63 feet, thence S 89 43'14" E for a distance of 40.00 feet to the centerline of Flint Creek, thence S 09 09'02" East along said centerline for a distance of 365.54 feet, thence S 26 17'29" E along said centerline for a distance of 111.80 feet, thence S 00 16'25" W along said centerline for a distance of 200 feet, thence N 89 43'58" W for a distance of 147.00 feet to the East Quarter Corner of said Section 26 and the point of beginning. Said parcel contains 46.40 acres.

**LESS AND EXCEPT:**

Lots conveyed to third party purchasers by Flint Ridge R.V. Development Company, and Oklahoma General Partnership, pursuant to instruments of conveyance executed by Flint Ridge R.V. Development Company subsequent to January 9, 1981, which lots have not been reconveyed by such lot purchasers back to Flint Ridge R.V. Development Company.

This is a description of a tract of land lying in Sections 25 and 26 Township 20 North, Range 24 East of the Indian Base and Meridian, Situated in the Count of Dealware, State of Oklahoma.

Beginning at The East Quarter Corner of Said Section 26, thence S 88 05'42" W along the South Line of the Northeast Quarter for a distance of 1956.12 feet, thence N 27 41'21" E for a distance of 2224.12 feet, thence along a curve to the right having a radius of 500.00 feet for a distance of 258.70 feet, thence N 57 20'01" E for a distance of 421.05 feet, thence along a curve to the right having a radius of 1200 feet for a distance of 87 feet, thence N 61 29'16" E for a distance of 685.66 feet to a point on the North Line of the South Half of the Northeast Quarter, thence along said North Line S 89 42'26" E for a distance of 486.16 feet to a point on the East line of Section 26, thence along said East Line S 00 01'34" W for a distance of 660.63 feet, thence S 89 43'14" E for a distance of 40.00 feet to the centerline of Flint Creek, thence S 09 09'02" E along said centerline for a distance of 365.54 feet, thence S 26 17'29" E along said centerline for a distance of 111.80 feet, thence S 00 16'25" W along said centerline for a distance of 200.00 feet, thence N 89 43'58" W for a distance of 147.00 feet to the East Quarter Corner of Said Section 26 and the Point of Beginning.

The Flint Ridge Home RV Park #1 and #2's operations include an RV park, private



sewage system, and laundry. Upon information and belief, the Flint Ridge Property Owners Association is also responsible for the maintenance of common areas within Flint Ridge, the operation of a golf course and stables. Thus, the Flint Ridge Property Owners Association has systematically applied amounts of fertilizer and chemicals on its property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Flint Ridge Home RV Park #1 and #2's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

57. Third Party Defendant, Marjorie Garman, owns the property upon which the Riverside RV Resort and Campground is located at 5116 Hwy 10 in Tahlequah, Oklahoma, more specifically identified as:

All that part of the NW4 of SE4 of NW4 lying South and East of Highway No. 10, and all that part of the SW4 of SE4 of NW4 lying North and West of the Illinois River, all in Section 26, Township 19 North, Range 23 East of the Indian Base and Meridian.

The Riverside RV Resort and Campground's operations include an RV park, private sewage system, twelve cabins, restrooms, campground, and canoe and raft rental. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Riverside RV Resort and Campground's conduct and operations, which was permitted on the property by Marjorie Garman, and which results

in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

58. Third Party Defendant, Riverside RV Resort and Campground, LLC is a limited liability corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Riverside RV Resort and Campground operates a facility on the property owned by Third Party Defendant, Marjorie Garman, located at 5116 Hwy 10 in Tahlequah, Oklahoma, more specifically identified in Paragraph No. 57. The Riverside RV Resort and Campground's operations include an RV park, private sewage system, twelve cabins, restrooms, campground, and canoe and raft rental. Upon information and belief, Riverside RV Resort and Campground systematically applies amounts of fertilizer and chemicals on the property of Third Party Defendant, Marjorie Garman, in the IRW and has improperly maintained the riparian buffers along the Illinois River. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Riverside RV Resort and Campground's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

59. Third Party Defendant, Frates Properties, Inc. is a suspended corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Frates Properties owns and operates various facilities within Flint Ridge which is located within the IRW, and more specifically identified in Exhibit "2", attached hereto. Upon

information and belief, Frates Properties owns property which may include portions or all of the Deer Valley Golf Course, a sewage system and stables in the Flint Ridge Development. Upon information and belief, Frates Properties has systematically applied amounts of fertilizer and chemicals within the IRW, and has permitted the disposition of manure from its stables upon the property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Frates Properties' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

60. Third Party Defendants, Brian R. And Mary C. Berry, are owners and operators of Town Branch Guest Ranch located at 1111 Wilcox Circle, Tahlequah, Oklahoma, more specifically identified as:

A tract of land in the N2 of the NW4 of the SW4 of the SW4 of Section 2, Township 16 North, Range 22 East of the Indian Base and Meridian, more particularly described as follows, to-wit: BEGINNING at the SW/corner of said N2 of the NW4 of the SW4 of the SW4; thence 110 feet East; thence 100 feet North; thence 110 feet West; thence 100 feet South to the Point of Beginning;

and

The SE4 of NE4 of SW4 and the SE4 of NW4 of SW4 and the SE4 of SW4 and the E2 of SW4 of SW4 and the SW4 of SW4 of SW4 and the S2 of the NW4 of SW4 of SW4 of Section 2, Township 16 North, Range 22 Elm, containing 95 acres more or less, According to the U.S. Government Survey thereof.

The Town Branch Guest Ranch's operations include the maintenance and rental of ten cabins and accompanying private sewage system. The Town Branch Guest Ranch is also responsible for the maintenance of common areas. Upon information and belief, the

Town Branch Guest Ranch has systematically applied amounts of fertilizer and chemicals on its property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Town Branch Guest Ranch's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

61. Third Party Defendants, Austin L. and Leslie A. Bennett, own and operate Eagle Bluff Resort located at in Tahlequah, Oklahoma, more specifically identified as:

The S2 of NE4 of SE4 and the SE4 of SE4 less the SE4 SE4 SE4 and all that part of the S2 of NW4 of SE4 lying east of Highway No. 10 and all that part of the SW4 of SE4 lying north and east of County Road, all in Section 13, Township 18 North, Range 22 East, Cherokee County, Oklahoma;

and

All that part of the SE4 of the SW4, lying south of the southerly boundary of Oklahoma State Highway No. 10 and north of the northerly boundary of the Illinois River and west of a line described as follows: Beginning at a point 668.9 feet west and 1630.55 feet south of the center of Section 13; thence south 15°-0' east, to the northerly boundary of the Illinois River, all in Section 13, Township 18 North, Range 22 East, Cherokee County, Oklahoma;

and

All that part of the SW4 of the SE4 of Section 13, Township 18 North, Range 22 East, lying south and west of the existing county road and north and west of the center line of the Illinois River;

and

A piece or parcel of land lying in the N2 of SE4 of Section 13, Township 18 North, Range 22 East, More Particularly Described as follows, To-Wit: Beginning at a point 668.9 feet west and 1630.55 feet south of the center of said section for a point of beginning: Thence South 15° East, A distance of 305 feet to the boundary of the Illinois River; thence westerly along the northerly boundary of Illinois River, a distance of 386.5 feet, to the southerly boundary of the now existing county road; thence northeasterly along the southerly boundary of the now existing county

road to the point of beginning, all in Section 13, Township 18 North, Range 22 East of the IBM, Cherokee County, Oklahoma;  
and

Tract 1: The E2 of SW4 of NW4 lying south of Highway No. 10, in Section 26, Township 19 North, Range 23 East, Cherokee County, Oklahoma.

Tract 2: Fisher Subdivision, being the SW4 of NE4 of SW4 of Section 13, Township 18 North, Range 22 East, less and except: Lots 4-5 and 6-7, of Fisher Subdivision, more particularly described as follows; beginning at the SW/corner of said SW4 of NE4 of SW4, thence east for a distance for 150 feet to the point of beginning; thence North 150 feet; thence east 200 feet; thence south 150 feet; thence west 200 feet to the point of beginning, Cherokee County, Oklahoma.

Tract 3: The SE4 of NE4 of SW4 and the SE4 of SW4 of Section 13, Township 18 North, Range 22 East, less and except: beginning at a point 343.0 feet south of the SE4 of SW4; thence N78°35'W, parallel to and 16 1/2 feet south for the center line of the county highway, 204.1 feet thence south 201.0 feet; thence east 200.0 feet; thence North 160.0 feet to the point of beginning, less and except a piece or parcel of land, lying in the N2 of SE4 of SW4 of Section 13, Township 18 North, Range 22 East, more particularly described as follows, to-wit: beginning at a point 668.9 feet west and 1630.55 feet south of the center of said section for a point of beginning; thence S15°E a distance of 305 feet to the boundary of Illinois River, thence westerly along the northerly boundary of Illinois River a distance of 386.5 feet to the southerly boundary of the now existing county road; thence northeasterly, along the southerly boundary of the now existing county road to the point of beginning, and less all that part of the SE4 of SW4 of Section 13, Township 18 North, Range 22 East, lying South of the Illinois River, Cherokee County, Oklahoma.

The Eagle Bluff Resort's operations include the operation of cabins, a store, a café, RV sites, camp grounds, canoe operation, and private sewage system. Upon information and belief, Eagle Bluff Resort systematically applies amounts of fertilizer and chemicals on its property within the IRW, and has improperly maintained the riparian buffers located along the Illinois River and its tributaries. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Eagle Bluff

Resort's conduct and operations, which has been permitted on the property by Austin L. and Leslie A. Bennett and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

62. Third Party Defendant, Barnacle Bills Marina, LLC is a limited liability corporation under the laws of Oklahoma. Barnacle Bills Marina leases and operates a marina on Lake Tenkiller, more specifically located at HC 69, Box 797, Park Hill, Oklahoma within the IRW from the United States Army Corps. of Engineers. Barnacle Bills' operations include a floating restaurant, marina, RV park, mobile-home rentals, gas sales, repair shop and a private sewage system. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Barnacle Bills' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

63. Third Party Defendant, Philip L. and Cheryl D. Beaman own property located in Cherokee County in the IRW, more specifically identified as:

TRACT A: All that part of the NW4 of the NE4 of the NW4 lying South of Oklahoma State Highway No. 10 and North and West of the Center line of the Illinois River, LESS the East 247.5 feet thereof, in Section 24, Township 17 North, Range 22 East, Cherokee County, Oklahoma, containing 2.2 acres, more or less;

and

TRACT B: All that part of the West 100.0 feet of the East 115.0 feet of the NW4 of the NE4 of the NW4 lying South of Oklahoma State Highway No. 10 and North of the center line of the Illinois River, in Section 24, Township 17 North, Range 22 East, Cherokee County, Oklahoma,

containing 0.4 acres, more or less.

Upon information and belief, Philip and Cheryl Beaman permit the operation of Falcon Floats on the above described property. Falcon Floats' operations include a six unit motel, swimming pool, campground, public restrooms, and private sewage system. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Falcon Floats' conduct and operations, which were permitted on the property by Philip and Cheryl Beaman and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

64. Third Party Defendant, Falcon Floats, Inc. is a suspended corporation under the laws of Oklahoma. Falcon Floats operates on property owned by Third Party Defendants, Philip L. and Cheryl Beaman within the IRW, more specifically identified in Paragraph No. 63. Falcon Floats' operations include a six unit motel, swimming pool, campground, public restrooms, and private sewage system. Upon information and belief, Falcon Floats also systematically applies fertilizer and chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Falcon Floats' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or

indemnity.

65. Third Party Defendant, Norma J. Brooks owns and operates Cookson Village and Cabins, which is located in Cherokee County in the IRW, more specifically identified as:

Commencing at the SE corner of the SE/4 - NE/4 - NE/4 of Section 10, T14N - R22E, Cherokee County, Oklahoma; thence N 89 degrees 30'10"W, 990.0 feet, thence N 00 degrees 10'00"W, 290.0 feet thence S 89 degrees 30'10"E, 75.00 feet to the point of beginning; Thence N 66 degrees 12'43"E for a distance of 245.56 feet; Thence S 00 degrees 10'00"E for a distance of 101.00 feet; Thence N 89 degrees 30'10"W for a distance of 225.00 feet; to the true point of beginning, containing 0.26 acres more or less.

and

Tract 1. Beg. at Center of NW NE NE S 200' E 400; for beg. S 300' E 100' N 300' W 100' to beg., A piece or parcel of land in the Section 10, Township 14, Range 22

Cookson Village and Cabins' operations include cabins, motel rooms, RV hook ups and a private sewage system. Upon information and belief, Norma J. Brooks is responsible for the maintenance of the private sewage system on the property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Norma J. Brooks and Cookson Village and Cabins' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

66. Third Party Defendant, Burnt Cabin Marina & Resort, LLC is a limited liability company under the laws of Oklahoma, and leases a facility at 34996 S. 502 Road, Park Hill, Oklahoma from the United States Army Corps of Engineers. Third



Party Defendant, Burnt Cabin Marina & Resort, LLC's operations include campsites, RV sites, an RV dump station, rental cabins, mobile home lots, a floating restaurant and marina, store, public restrooms, a swimming area, fuel storage tanks and a private sewage system. Upon information and belief, Burnt Cabin Marina & Resort also systematically applies fertilizers and chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Burnt Cabin Marina & Resort's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

67. Third Party Defendant, Fin and Feather Resort, Inc., is a corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Fin and Feather Resort owns operates a facility located at Route 1, Box 194, Gore, Oklahoma 74435 within the IRW, which is more specifically identified as:

Lot 18 of Strayhorn Heights Dev. #1, according to the recorded Flat thereof, and further described as a part of the W1/2 NW1/4 NW1/4 of Section 10, Township 13 North, Range 21 East.

and

Lots 11 And 12, Strayhorn Hills Development #2, a part of N1/2 SE1/4 NE1/4 and and [Sic.] a part of the SW1/4 NE1/4 NE1/4, All in Section 9, Township 13 North, Range 21 East

and

Lot 13, Strayhorn Hills Development #2 Sequoyah County, Oklahoma.

Third Party Defendant Fin and Feather Resort, Inc. operates a resort with rental cabins, a restaurant, store and motel, which requires a private sewage disposal system. Upon information and belief, based upon Fin and Feather Resort also systematically applies

fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Fin and Feather Resort, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

68. Third Party Defendants, James Lamb and Dorothy Gene own property located in Gore, Oklahoma within the IRW, more specifically identified as:

Tract Beg SE/C L.36 Stray Hills #2  
and

A Part Of The Northwest Quarter (1/4), Southwest Quarter (1/4), Northwest Quarter (1/4) of Section 10, Township 13 North, Range 21 East, Sequoyah County, Oklahoma being more particularly described as follows: Beginning at the SW Corner of said NW1/4 SW1/4 NW1/4, Thence N0°07'21"E 619.05 feet, Thence S70°08'49"E 179.52 feet, Thence N88°30'27"E 157.79 feet, Thence S67°50'03"E 358.58 feet, Thence South 426.90 feet to the SE Corner of said NW1/4 SW1/4 NW1/4, Thence West 660.00 feet to the Point of Beginning.

Upon information and belief, James Lamb and Dorothy Gene permit Strayhorn Landing Marina & Gene's Scuba Sales to operate on the above described property. Strayhorn Landing Marina & Gene's Scuba Sales' operations include but are not limited to a marina, repair shop, boat rentals, gas sales, retail shop, and a private sewage system. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Strayhorn Landing Marina & Gene's Scuba Sales' conduct and operations, which has been permitted by James Lamb and Dorothy Gene,

and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

69. Third Party Defendant, Strayhorn Landing Marina & Gene's Scuba Sales, is a corporation under the laws of Oklahoma which operates a facility located in Gore, Oklahoma within the IRW, on property owned by Third Party Defendants, James Lamb and Dorothy Gene, more specifically described in Paragraph No. 68. Third Party Defendant, Strayhorn Landing Marina & Gene's Scuba Sales' activities within the IRW, include but are not limited to a marina, repair shop, boat rentals, gas sales, retail shop, and a private sewage system. Upon information and belief, Stayhorn Landing Marina & Gene's Scuba Sales also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Strayhorn Landing Marina & Gene's Scuba Sales conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

70. Third Party Defendant, Pine Cove Marina & Clearwater Cafe, Inc., is a suspended corporation under the laws of Oklahoma which leases and operates a facility in HC 68, Box 1090, Vian, Oklahoma within the IRW from the United States Army Corps. of Engineers. Pine Cove Marina's activities include but are not limited to the operation of a marina, dock, restaurant, and a private sewage system. Upon information

and belief, Pine Cove Marina also systematically applies fertilizers and chemicals to the property upon which it has its facility within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Pine Cove Marina & Clearwater Café, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

71. Third Party Defendant, John T. Posey, Jr. Trust owns and operates Meadow Park RV Park on property located in the IRW, more specifically identified as:

The NE/4 SE/4 and part of the SE/4 NE/4 of Section 12, Township 13 North, Range 21 East, more particularly described as follows: Beginning at the NE corner of said SE/4 NE/4; thence N 89°12'45"W 494.82 feet to a point in the center of a NE to SW County Road; thence S 12°14'26" W 59.32 feet; thence S 48°00'21" W 78.32 feet; thence S 54°30'31"W 516.68 feet; thence S 54°06'51" W 345.23 feet; thence S 02°31'14"W 367.67 feet; thence N 89°14'49" W 41.70 feet; thence S 00°00'15" E 330.86 feet; thence S 89°16'59" E 1325.78 feet to a Government stone being the SE corner of said SE/4 NE/4; thence N 00°04'56" W 1320 feet to the point of beginning;

LESS A parcel of land located in the NE/4 SE/4 of Section 12 more particularly described as: Beginning at a point which is N00°00'15" E 350.00 feet from the SW corner of said NE/4 SE/4; thence continuing N 00°00'15" W 100.00 feet; thence East 174.00 feet; thence S 00°00'15" E 100.00 feet; thence West 174.00 feet to the point of beginning.

Third Party Defendant, John T. Posey, Jr. Trust as owner and operator of Meadow Park RV directs and controls the operations of Meadow Park RV Park. Meadow Park RV Park's operations and activities include, but are not limited to an RV park and private sewage system. Upon information and belief, John T. Posey Jr. Trust also systematically applies fertilizers and chemicals to the property within the IRW. The operations and

activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Meadow Park RV Park and the John T. Posey, Jr. Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

72. Third Party Defendant, Snake Creek Marina, LLC is a limited liability company under the laws of Oklahoma. Third Party Defendant, Snake Creek Marina leases and operates a facility located at 18576 West Snake Creek Rd. in Cookson, Oklahoma in the IRW from the United States Army Corps. of Engineers. Snake Creek Marina's operations include, but are not limited to a mobile home park, boat docks, marina, rentals, repair shop, gas station and a private sewage system. Upon information and belief, Snake Creek Marina also systematically applies fertilizer and chemicals on the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Snake Creek Marina's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

73. Third Party Defendant, the unnamed owners of Elk Creek Landing which has its principal place of business in Oklahoma. Elk Creek Landing leases and operates a

facility located at 23374 E. 878 Rd, Park Hill, Oklahoma in the IRW from the United States Corps. of Engineers. Elk Creek Landing's operations include campsites, lodging, swimming area, dumping station, marina, boat launch, grocery store and a private sewage system. Upon information and belief, Elk Creek Landing also systematically applies fertilizer and chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Elk Creek Landing's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

74. Third Party Defendant, Flintridge Park, LLC, is a limited liability corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Flintridge Park owns and operates a facility located at 29300 Hwy 82, Park Hill, Oklahoma, more specifically identified as:

All that part of the N2 of the NW4 of SW4 of Section 29, Township 15 North, Range 23 East lying West of Highway No. 82; AND The SE4 of SW4 of NW4 and the E2 of SW4 of NW4 of Section 29, Township 15 North, Range 23 East; AND A tract of land in the N2 of SW4 of NW4 of Section 29, Township 15 North, Range 23 East, more particularly described as follows, to-wit; Beginning at a point 93.0 feet West of the SE Corner of the N2 of the SW 4 of NW4 of said Section 29; thence West 122.0 feet; thence North 220.0 feet; thence East 181.0 feet; thence South 33.0 feet; thence West 37.0 feet; thence South 65.0 feet; thence West 22.0 feet; thence South 122.0 feet to the Point of Beginning, containing 0.69 acres, more or less; LESS AND EXCEPT A tract of land commencing at the SE corner of the N2 of SW4 of NW4 of Section 29, Township 15 North, Range 23 East; thence N89 54'00" W 215.0 feet for the true point of beginning; thence N00 12'00"E 220.0 feet; thence S89 54'00" E 10.50 feet; thence S02 51'50"W 220.25 feet to the true point of beginning, containing 0.026 acres more or less;

Flintridge Park's operations include a RV Park, rental cabins, mobile home park, swimming area, marina, boat launch, gas sales and private sewage system. Upon information and belief, Flintridge Park systematically applies fertilizer and chemicals to its property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Flintridge Park's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

75. Third Party Defendant, Bill Stewart owns and operates Dutchman's Cabins located at 34077 S. 528 Road, Cookson, Oklahoma in the IRW, more specifically identified as:

The S2 of the SW4 of the SW4 of Section 14, Township 14 North, Range 22 East, LESS AND EXCEPT The South 75.0 feet of the North 235.0 feet of East 175.0 feet, thereof according to the United States Survey thereof.

Dutchman's Cabins' operations include rental cabins, a mobile home park, store and private sewage system. Upon information and belief, Dutchman's Cabins also systematically applies fertilizer and chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Bill Stewart and Dutchman's Cabins' conduct and operations, which results in the release of some or all of the same constituents into the

IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

76. Third Party Defendant, Tom Cotten owns and operates Chicken Creek Village Store located at 19441 W. Chicken Creek Road, Cookson, Oklahoma in the IRW, more specifically identified as:

A tract of land located in the W2 of the NE4 of Section 22, Township 14 North, Range 22 East, described as follows: Commencing at the NW corner of the NE4 of said Section 22 for the point of beginning; thence S 89°53'38" E for a distance of 100.00 feet; thence S 00°04'00" W for a distance of 100.00 feet; thence S 89°53'38" E for a distance of 257.50 feet; thence S 00°04'00" W for a distance of 155.00 feet; thence N 85°03'03" E for a distance of 107.81 feet; thence S 00°04'00" W for a distance of 4.50 feet; thence S 03°48'22" E for a distance of 290.68 feet; thence N 89°53'38" W for a distance of 154.53 feet; thence S 00°04'00" W for a distance of 350.00 feet; thence N 89°53'38" W for a distance of 330.00 feet; thence N 00°04'00" E for a distance of 100.00 feet; thence S 89°53'38" E for a distance of 150.00 feet; thence N 00°04'00" E for a distance of 100.00 feet; thence N 89° 53'38" W for a distance of 150.00 feet; thence N 00°04'00" E for a distance of 690.00 feet to the true point of beginning, containing 6.93 acres, more or less; a portion of the above property being a part of Lot 1 and all of Lots 2, 3, 4, and 5 in Block 3 in Chicken Creek Village Addition to Cherokee County, Oklahoma, according to the official plat thereof.

Chicken Creek Village Store's operations include rental cabins, a mobile home park, store and private sewage system. Upon information and belief, Chicken Creek Village Store also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Tom Cotten and Chicken Creek Village Store's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the



theories of contribution and/or indemnity.

77. Third Party Defendant, John T. Posey, Jr. owns property located in the IRW, more specifically identified as:

The North 412 1/2 feet of the South 577 1/2 feet of the NE 1/4 SE 1/4 SE 1/4 of Section 1 Township 13 North, Range 21 East, less a part of NE 1/4 SE 1/4 SE 1/4 of Section 1, Township 13 North, Range 21 East, described as beginning at a point 165 feet North of the SW Corner of said NE 1/4 SE 1/4 SE 1/4 for a starting point; Thence North 100 feet, Thence East 660 feet, Thence South 100 feet, Thence West 660 feet to the Point of Beginning.

Upon information and belief, Third Party Defendant, John T. Posey, Jr. permits Grande Villa, Inc. to operate on his property. Grande Villa's operations include rental cabins and a private sewage system. Upon information and belief, Grand Villa also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Grande Villa, Inc.'s conduct and operations, which has been permitted by John T. Posey, Jr. and which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

78. Third Party Defendant, Grande Villa, Inc. is a corporation under the laws of Oklahoma, and operates a facility located within the IRW, on property owned by Third Party Defendant, John T. Posey, Jr., more specifically described in Paragraph No. 77. Third Party Defendant, Grande Villa's activities within the IRW, include but are not limited to rental cabins and a private sewage system. Upon information and belief, Grand

Villa also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Grande Villa's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

79. Third Party Defendant, Bishop Wadsworth owns and operates Cookson Log Cabin Motel located in Cookson, Oklahoma in the IRW, more specifically identified as:

A tract of land in the NE4 of the NE4 of Section 11, Township 14 North, Range 22 East, more particularly described as follows, to-wit: Beginning at a point 250.00 feet West of the NE Corner of the NE4-NE4 of said Section 11; thence South a distance of 290.00 feet; thence East a distance of 210.00 feet; thence South a distance of 200 feet; thence West a distance of 1034.00 feet to the Point of Beginning; thence South 170.00 feet; thence West 33.0 feet; thence North 00°13'00" West 370.00 feet; thence East 39.0 feet; thence South 200.00 feet to the Point of Beginning;

and

A tract of land in the NE4 of the NE4 of Section 11, Township 14 North, Range 22 East, more particularly described as follows, to-wit: Beginning at a Point 250.0 feet West of the NE/Corner of the NE4 of the NE4 of said Section 11; thence South a distance of 290.0 feet; thence East a distance of 210.0 feet; thence South a distance of 200.0 feet; thence West a distance of 1070.0 feet; thence North a distance of 200.0 feet; thence East a distance of 650.0 feet; thence North a distance of 290.0 feet; thence East a distance of 210.0 feet to the Point of Beginning, according to the United States Survey thereof;

and

Beginning at a point 460.0 feet South and 40.00 feet West of the NE corner of Section 11, Township 14 North, Range 22 East, Cherokee County, Oklahoma: Thence S 00°18'20" W for a distance of 30.00 feet; thence N 89°17'00" W for a distance of 621.00 feet; thence N 00°18'20" E for a distance of 30.00 feet; thence S 89°17'00" E for a distance of 621.00

feet; to the point of beginning; containing 0.455 acres; more or less;  
and

A portion of the NE4, Section 11, Township 14 North, Range 22 East, more particularly described as follows: Commencing at the NE corner of said Section 11, thence West 250 feet to the point of beginning; thence West 50 feet; thence South 290 feet; thence East 50 feet; thence North 290 feet to the point of beginning.

Said property also being described as follows: Beginning at the NE corner of Section 11, Township 14 North, Range 22 East, go 300 feet West, then 290 feet South, then 50 feet East, then 290 feet North to the place of beginning 300 feet West;  
and

All of our interest in and to the following described tract of land, to-wit: A Tract in the NE4 of the NE4 of Section 11, Township 14 North, Range 22 East, more particularly described as follows, to-wit: Beginning at a point 250.0 feet West of the NE/Corner of the NE4 of the NE4 of said Section 11; Thence West a distance of 50.0 feet; Thence South a distance of 290.0 feet; Thence East a distance of 50.0 feet; Thence North a distance of 290.0 feet to the Point of Beginning, according to the United States Survey thereof;  
and

An undivided 1/3 interest in the following described tract of land, to-wit: A tract of land in the NE4 of the NE4 of Section 11, Township 14 North, Range 22 East, more particularly described as follows, to-wit: Beginning at a Point 300.0 feet West of the NE/Corner of the NE4 of the NE4 of said Section 11; Thence South a distance of 290.0 feet; Thence East a distance of 260.0 feet; Thence South a distance of 200.0 feet; Thence West a distance of 1070.0 feet; Thence North a distance of 200.0 feet; Thence East a distance of 650.0 feet; Thence North a distance of 290.0 feet; Thence East a distance of 160.0 feet to the Point of Beginning, according to the United States Survey thereof.

Cookson Log Cabin Motel's operations include rental cabins, lodging and a private sewage system. Upon information and belief, Cookson Log Cabin Motel also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Cookson Log Cabin Motel's conduct and operations,

which has been permitted on the property by Bishop Wadsworth which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

80. Third Party Defendant, Arrowhead Camp, Inc. is a suspended corporation under the laws of Oklahoma. Arrowhead Camp is located on Scenic Hwy 10 in Tahlequah, Oklahoma in the IRW, more specifically identified as:

T18N, R23E, S05 Beginning 249.30' East of SW corner of section then N  
0 22'43" W614.92' S 62 07'15" W82.50' N 27 52"45" W 60'N 63 16'53"

Arrowhead Camp's operations include rental cabins, bunkhouse, lodging, RV hookups, camping, canoe and raft rental, showers and private sewage system. Upon information and belief, Arrowhead Camp also systematically applies fertilizers and other chemicals to its property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Arrowhead Camp's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

81. Third Party Defendants, David and Brenda Spears have a legal interest in property located at 7704 Hwy 10, Tahlequah, Oklahoma in the IRW, more specifically identified as:

A tract of land in the SE4 of the SE4 of the NE4 of Section 12, Township 19 North, Range 22 East, more particularly described as follows, to-wit: Commencing at the SE/Corner of the NE4 of Section 12, thence S 89 53'22" W for a distance of 170.0 feet; thence N 15 24'00" W for a distance of 233.90 feet; thence along a 08 01'30" curve to the right with a radius of

713.94 feet for a distance of 226.45 feet; thence N 71 20'32" E for a distance of 36.95 feet; thence S 00 06'53" W for a distance of 348.00 feet to the point of beginning, containing 1.399 acres more or less.

Upon information and belief, David and Brenda Spears permit Thunderbird Resort, Inc. to operate a facility on the above described property. Thunderbird Resort's operations include but are not limited to a canoe and raft rental, camping, RV hookups, cabins, bunkhouse, lodge, showers and a private sewage system. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Thunderbird Resort's conduct and operations, which has been permitted on the property by David and Brenda Spears and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

82. Third Party Defendant, Thunderbird Resort, Inc. is a suspended corporation under the laws of Oklahoma operating a facility located at 7704 Hwy 10, Tahlequah, Oklahoma within the IRW, on property owned by Third Party Defendant, David Spears, more specifically described in Paragraph No. 81, above. Third Party Defendant, Thunderbird Resort's activities and operations within the IRW, include but are not limited to canoe and raft rental, camping, RV hookups, cabins, bunkhouse, lodge, showers and a private sewage system. Upon information and belief, Thunderbird Resort also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third

Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Thunderbird Resort's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

83. Third Party Defendant, War Eagle Floats, Inc. is a suspended corporation under the laws of Oklahoma. War Eagle Floats, Inc. is located on 13020 N. Hwy 10, Tahlequah, Oklahoma in the IRW, more specifically identified as:

The Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) ; and the West Half (W/2) of the Southeast Quarter (SE/4) of the Southwest Quarter (SW/4); and a piece or parcel of land located in the E/2 of the SE/4 of the SW/4 described as follows: BEGINNING at the NW/Corner of the E/2 of the SE/4 of the SW/4; thence East along the North line of said 20 acres a distance of 150 feet to the West bank of the Illinois River; thence running in a southerly direction along the bank of said river to said river intersection with the West line of said 20 acres; thence North along the West line of said 20 acres a distance of 780 feet to the Point of Beginning, all in Section 36, Township 18 North, Range 22 East to the IB&M, all in Cherokee County, State of Oklahoma;  
and

The South Half (S/2) of the Northwest Quarter (NW/4) of the Southeast Quarter (SE/4); and the Southwest Quarter (SW/4) of the Northeast Quarter (NE/4) of the Southeast Quarter (SE/4); and the South Half (S/2) of the Southeast Quarter (SE/4) in Section 35, Township 18 North, Range 22 East of the IB&M, according to the U.S. Survey thereof, all in Cherokee County, State of Oklahoma; less and except any property east of Highway 10;  
and

All that part of the South Half (S/2) of the Southeast Quarter (SE/4) of Section 35, Township 18 North, Range 22 East, Cherokee County, Oklahoma lying East of Oklahoma State Highway #10;  
and

A tract of land situated in the SE/4 of the NW/4 and the SW/4 of the NE/4 of Section 32, Township 17 North, Range 22 East, Cherokee County, Oklahoma, being more particularly described as follows, to wit: Beginning at a point 608.5 feet West of the NE Corner of the NW/4 of the SW/4 of the NE/4 of said Section; thence West 1371.5 feet; thence South 660 feet; thence East 660 feet; thence South 462.7 feet, said point being 198.5 feet North of the SW corner of the E/2 of the SE/4 of the NW/4 of said Section, thence East 277.8 feet; thence North 30.6 feet; thence on a

curve to the right, having a radius of 190 feet, 156.1 feet; thence N 43°02' W, 159.1 feet; thence N 57°58' E, 1038.1 feet to a point, said point being the SW Corner of Lot 6, Block 2, of the West Side Addition; thence S 89°47' W, 98.4 feet; thence S 62°57' W, 338.6 feet; thence N 0°06' W, 440.8 feet to the Point of Beginning;

LESS AND EXCEPT:

A tract of land situated in the NE/4 of SE/4 of NW/4 of Section 32, Township 17 North, Range 22 East, Cherokee County, Oklahoma, being more particularly described as follows, to wit: BEGINNING at a point 908.5 feet West of the NE/Corner of the NW/4 of SW/4 of NE/4 of said Section; thence South 240 feet; thence West 130 feet; thence North 240 feet; thence East 130 feet to the Point of Beginning, containing 0.72 acres, more or less; LESS the South 30 feet for road easement;

LESS AND EXCEPT:

A tract of land situated in the NW/4 of the SW/4 of the NE/4 and the NE/4 of the SE/4 of the NW/4 of Section 32, Township 17 North, Range 22 East, Cherokee County, Oklahoma, being more particularly described as follows, to wit: BEGINNING at a point 608.5 feet West and 430 feet South of the NE corner of the NW/4 of the SW/4 of the NE/4 of said Section; thence West 150 feet; thence North 190 feet; thence N 68°11' E, 161.57 feet; thence South 250 feet to point of beginning, containing 0.75 acres, more or less;

LESS the North 30 feet for road easement;

LESS AND EXCEPT:

A tract of land situated in the NE/4 of the SE/4 of the NW/4 of Section 32, Township 17 North, Range 22 East, Cherokee County, Oklahoma, being more particularly described as follows, to wit: Beginning at a point 798.5 feet West of the NE/Corner of the NW/4 of the SE/4 of the NE/4 of Section 32, thence South 240 feet, thence West 110 feet, thence North 240 feet, thence East 110 feet to the point of beginning. Containing 0.60 acres, more or less. Less the South 30 feet for road easement.

LESS AND EXCEPT:

A part of the NW4 of SW4 of NE4 and a part of the NE4 of SE4 of NW4 of Section 32, Township 17 North, Range 22 East, described as: Beginning at a point 608.5 feet West of the NE/Corner of said NW4 SW4 NE4; thence South 180.0 feet to a point; thence S65°38'W, 104.2 feet to a point; thence North 223.0 feet to a point; thence East 95.0 feet to the Point of Beginning, LESS the South 30 feet for road easement.

War Eagle Floats' operations include rental cabins, bunkhouse, RV hookups, camping, canoe and raft rental, pool, showers and private sewage system. Upon information and belief, War Eagle Floats also systematically applies fertilizers and other chemicals to its property within the IRW. The operations and activities described above have and



continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then War Eagle Floats' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

84. Third Party Defendants, Veraman and Billie Davis own property located at Hwy 28 and West Snake Creek Road in Cookson, Oklahoma in the IRW, more specifically identified as:

A tract of land lying in and being a part of the NE4 SW4 of Section 34, Township 14 North, Range 22 East, Cherokee County, Oklahoma, more particularly described as follows, to-wit: commencing at the Southeast corner of the SW4 of said Section 34; thence N0°03'25"W, 1955.06 feet; thence N89°06'49"W, 584.95 feet to the true point of beginning; thence N20°34'47"E, 188.07 feet; thence N68°43'13"W, 180.83 feet to a point on the Easterly Boundary of Oklahoma State Highway No. 82; thence S18°33'16"W, along the Easterly Boundary of Oklahoma State Highway No. 82, 93.2 feet; thence in a Southwesterly direction along the Easterly Boundary of Oklahoma State Highway No. 82, on a curve to left, having a radius of 665.28 feet, the chord being S11°54'10"W, 154.12 feet, an Arc distance of 154.47 feet; thence S89°06'49"E, 163.86 feet to the point of beginning;

and

The NW4 of the SW4 of the NW4 AND the SE4 of the SW4 of the NW4 of Section 36, Township 14 North, Range 22 East, Cherokee County, Oklahoma;

and

A tract of land located in the E2 and the E2 of the W2 of Section 34, and the W2 of Section 35, Township 14 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma, more particularly described as follows, to-wit: Commencing at the NE Corner of Section 34, T14N - R22E, Cherokee County, Oklahoma for the true point of beginning. Thence S 89°59'33" E for a distance of 1743.00 feet; Thence S 28°06'34" W for a distance of 702.94 feet; Thence S 03°32'32" W for a distance of 762.24 feet; Thence N 83°58'10" W for a distance of 210.16 feet; Thence S 10°10'49" E for a distance of 490.08 feet; Thence S 41°26' 26" W for a distance of 209.39 feet; Thence S 57°30'10" W for a distance



of 319.74 feet; Thence S 87°05'17" W for a distance of 254.17 feet; Thence N 30°03'14" W for a distance of 251.99 feet; Thence S 52°13'48" W for a distance of 137.24 feet; Thence along a 70°47'17" degree curve to the left, with a radius of 80.94 feet, for a distance of 42.75 feet; Thence S 21°57'58" W for a distance of 222.53 feet; Thence along a 08°05'31" degree curve to the right, with a radius of 708.05 feet, for a distance of 76.72 feet; Thence S 28°10'27" W for a distance of 135.57 feet; Thence along a 09°58'26" degree curve to the right, with a radius of 574.45 feet, for a distance of 128.79 feet; Thence S 41°01'11" W for a distance of 519.96 feet; Thence along a 22°39'42" degree curve to the right, with a radius of 252.83 feet, for a distance of 97.68 feet; Thence S 63°09'23" W for a distance of 282.25 feet; Thence along a 69°07'22" degree curve to the left, with a radius of 82.89 feet, for a distance of 44.83 feet; Thence S 32°09'55" W for a distance of 212.60 feet; Thence along a 00°45'26" degree curve to the left, with a radius of 7566.68 feet, for a distance of 199.19 feet; Thence S 30°39'25" W for a distance of 334.80 feet; Thence S 41°10'54" E for a distance of 424.02 feet; Thence S 36°07'25" W for a distance of 86.25 feet; Thence S 57°48'26" W for a distance of 124.38 feet; Thence S 65°03'22" W for a distance of 166.44 feet; Thence S 70°46'00" W for a distance of 89.08 feet; Thence S 84°36'17" W for a distance of 86.47 feet; Thence N 88°32'52" W for a distance of 100.04 feet; Thence N 52°09'25" W for a distance of 53.91 feet; Thence S 22°25'42" W for a distance of 242.62 feet; Thence along a 09°05'57" degree curve to the left, with a radius of 629.68 feet, for a distance of 160.68 feet; Thence S 87°19'51" E for a distance of 114.67 feet; Thence S 06°10'13" E for a distance of 83.34 feet; Thence S 74°59'26" W for a distance of 114.66 feet; Thence along a 02°23'37" degree curve to the right, with a radius of 2393.75 feet, for a distance of 200.76 feet; Thence S 79°47'45" W for a distance of 204.30 feet; Thence along a 31°11'52" degree curve to the right, with a radius of 183.65 feet, for a distance of 115.55 feet; Thence N 64°09'11" W for a distance of 244.14 feet; Thence along a 04°08'40" degree curve to the right, with a radius of 1382.49 feet, for a distance of 232.20 feet; Thence along a 01°09'09" degree curve to the left, with a radius of 4971.42 feet, for a distance of 226.29 feet; Thence N57°08'17" W for a distance of 88.65 feet; Thence along a 10°09'38" degree curve to the right, with a radius of 563.91 feet, for a distance of 206.23 feet; Thence along a 13°34'55" degree curve to the right, with a radius of 421.88 feet, for a distance of 208.34 feet; Thence N 07°54'06" W for a distance of 274.34 feet; Thence along a 06°30'53" degree curve to the left, with a radius of 879.50 feet, for a distance of 144.72 feet; Thence N 17°19'48" W for a distance of 181.92 feet; Thence along a 49°07'54" degree curve to the left, with a radius of 116.62 feet, for a distance of 146.10 feet; Thence N 89°06'49" W for a distance of 452.48 feet; Thence along a 08°36'44" degree curve to the right, with a radius of 665.28 feet, for a distance of 60.05 feet; Thence S 89°06'49" E for a distance of 662.83 feet; Thence along a 21°27'30" degree curve to the right, with a radius of

267.01 feet, for a distance of 102.40 feet; Thence along a 69°58'02" degree curve to the left, with a radius of 81.89 feet, for a distance of 170.62 feet; Thence along a 16°28'17" degree curve to the left, with a radius of 347.85 feet, for a distance of 46.52 feet; Thence along a 18°39'32" degree curve to the left, with a radius of 307.07 feet, for a distance of 148.14 feet; Thence S 78°03'11" W for a distance of 281.41 feet; Thence N 63°16'08" W for a distance of 250.35 feet; Thence N 72°24'09" W for a distance of 49.41 feet; Thence N 20°34'47" E for a distance of 863.88 feet; Thence N 65°18'12" E for a distance of 1287.40 feet; Thence along a 09°10'36" degree curve to the left, with a radius of 624.35 feet, for a distance of 562.49 feet; Thence N 13°41'05" E for a distance of 356.28 feet; Thence S 76°18'55" E for a distance of 50.00 feet; Thence N 13°41'05" E for a distance of 282.70 feet; Thence along a 02°04'21" degree curve to the right, with a radius of 2764.65 feet, for a distance of 474.92 feet; Thence N 23°31'38" E for a distance of 209.96 feet; Thence S 89°59'33" E for a distance of 850.54 feet; to a true point of beginning, containing 262.10 acres, more or less;

and

The SE/4 and SE/4 of NE/4 and E/2 of NE/4 of NE/4; and all that part of the S/2 of SW/4 of NE/4 and the W/2 of NE/4 NE/4 and of the N/2 SW/4 NE/4 and of the SE/4 NW/4 NE/4, and of the SE/4 SE/4 NW/4 and of the E/2 SW/4 lying East and South of the Center line of State Highway No. 82, all in Section 34, Township 14 North, Range 22 East; and all of Section 35, Township 14 North, Range 22 East; and The S/2 of SW/4 and NW/4 SW/4; and SW/4 NE/4 SW/4 of Section 36, Township 14 North, Range 22 East, LESS minerals previously reserved.

Upon information and belief, Veraman and Billie Davis permit Snake Creek Wilderness Development, Inc. to operate a facility on the above described property. Snake Creek Wilderness' operations include but are not limited to a motel, condominiums, convenience store, gas station, subdivision, airstrip, maintenance of common areas for homes, and a private sewage system. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Snake Creek Wilderness's conduct and operations, which has been permitted by Veraman and Billie Davis, and which results in the release of some or all of the same constituents into

the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

85. Third Party Defendant, Snake Creek Wilderness Development, Inc. is a suspended corporation under the laws of Oklahoma operating a facility located at Hwy 28 and West Snake Creek Road in Cookson, Oklahoma within the IRW, on property owned by Third Party Defendant, Veraman and Billie Davis more specifically described in Paragraph No. 84. Third Party Defendant, Snake Creek Wilderness Development's activities within the IRW, include but are not limited to a motel, condominiums, convenience store, gas station, subdivision, airstrip, maintenance of common areas for homes, and a private sewage system. Upon information and belief, Snake Creek Wilderness also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Snake Creek Wilderness Development's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

86. Third Party Defendant, Sixshooter Resort and Marina, Inc is a corporation under the laws of Oklahoma. Sixshooter Resort and Marina leases and operates a facility located at 20144 W. Sixshooter Rd., Cookson, Oklahoma in the IRW from the United States Army Corps. of Engineers. Sixshooter Resort and Marina's operations include but are not limited to a large marina, cabins, mobile homes, cattle and a private sewage

system. Upon information and belief, Sixshooter Resort and Marina systematically applies fertilizer and chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Sixshooter Resort and Marina's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

87. Third Party Defendant, Peyton Family Trust owns and operates Peyton's Place property located at 10298 Highway 10, Tahlequah, Oklahoma, more specifically identified as:

A tract of land in the SW4 of the NW4 of Section 24, Township 18 North, Range 22 East, more particularly described as follows, to-wit: Beginning at the SW/Corner of the SW4 of the NW4 of said Section 24; thence East a distance of 1015.0 feet; thence Northwesterly on a straight line to a point 200.0 feet East and 151.5 feet North of the SW/Corner of the NE4 of the SW4 of the NW4; thence Northwesterly on a straight line to the NW/Corner of the NE4 of the SW4 of the NW4; thence South a distance of 660.0 feet to the SW/Corner of the NE4 of the SW4 of the NW4; thence West to the Easterly right of way line of Highway No. 10; thence Southwesterly along the right of way line of said highway to the point where said right of way intersects the West line of the SW 4 of the NW4; thence South to the point of beginning (approximately 16 acres); and

A tract of land in the NE4 of SE4 of Section 27, Township 19 North, Range 23 East, more particularly described as: Beginning at the intersection of the South right of way line of State Highway No. 10 and the East line of NE4 of SE4 of said Section 27; thence S0°04'53"E for a distance of 462.79 feet on said East line; thence N61°07'48"W a distance of 106.15 feet; thence N16°09'11"W for a distance of 97.94 feet; thence N0°04'53"W for a distance of 229.05 feet to the South right of way line of State Highway No. 10; thence N52°58'29"E for a distance of 150.15 feet along the South right of way line to the point of beginning (approximately 1.3 acres);

And a permanent easement of ingress and egress to provide access by

water from the last above described property through the slough to the Illinois River. Said easement shall be 20 feet wide and provide access by boat, canoe or on foot to the Illinois River through the slough. Grantors reserve the right to remove any obstruction from the easement area including the removal of mud and replacement with gravel or other substance to provide easy access to the river and a place to launch their boats or canoes. It is agreed that this easement is a permanent easement which attaches to said above described tract of land and may be conveyed, inherited, assigned or sold at the option of the holder thereof;

The specific location of this easement shall begin at the South end of the last above described tract and cover the East twenty feet along the East line of the property being conveyed until the center of the slough bends to the West and the shall be twenty feet wide through the center of the slough until it enters the Illinois River;

and

All that part of the W2 of NW4 of NW4 and the NW4 of SW4 of NW4 lying South and East of Highway 10 in Section 24, Township 18 North, Range 22 East, Cherokee County, Oklahoma, according the the U.S. Survey thereof (approximately 2 and 1/2 acres);

and

A tract in the W2 of NW4 of NW4 and in the NW4 of SW4 of NW4 of Section 24, Township 18 North, Range 22 East, to-wit: BEGINNING at the Point of Intersection of the Easterly Right-Of-Way line of State Highway No. 10, with the Easterly line of said W2 of NW4 of NW4, said point being 565.8 feet, more or less, South of the NE/Corner of said W2 of NW4 of NW4; thence South 1262.7 feet to a point 1828.5 feet South of the NE/Corner of said W2 of NW4 of NW4; thence West 500 feet, more or less, to the Easterly line of said Highway; thence Northeasterly along said Easterly Highway Right-Of-Way line to the Point of Beginning;

The NE4 of SE4, and the SE4 of NW4 of SE4, and the SE4 of SE4 less: 2 acres more or less described as follows, BEGINNING at a point 460.2 feet West and 238 feet North of the SE Corner of Section 23, Township 18 North, Range 22 East; thence West 416 feet; thence North 208 feet; thence East 416 feet; thence South 208 feet to the point of beginning. All in Section 23, Township 18 North, Range 22 East.

LESS AND EXCEPT the following described property to wit: Commencing at the NW corner of the NW4 of Section 24, Township 18 North, Range 22 East, Cherokee County, Oklahoma; thence N89°57'38"E a distance of 640.45 feet; thence S0°02'22"E a distance of 1550.46 feet to the POINT OF BEGINNING; thence S11°32'25"E, a distance of 144.98 feet; thence S85°15'11"W, a distance of 59.85 feet; thence N73°03'35"W, a distance of 42.44 feet; thence N23°24'25"W, a distance of 40.67 feet; thence N02°14'50"E, a distance of 80.77 feet; thence N78°50'43"E, a distance of 85.85 feet to the POINT OF BEGINNING; said described tract containing 0.3 acres, more or less;

LESS AND EXCEPT : A permanent easement for ingress and egress over

and across the following described tract, to-wit: A strip of land being 8.0 feet each side of a line described as: Beginning at a point on the Easterly Right of Way line of State Highway No. 10, a distance of 240.64 feet East and 1378.52 feet South of the NW Corner of Section 24, Township 18 North, Range 22 East, Cherokee County, Oklahoma; thence S71°48'40" E a distance of 321.05 feet; thence S18°34'03"E a distance of 89.21 feet to the Point of Termination on property line;

and

The NE2 of SE4 of Section 24, Township 18 North, Range 22 East of the IB&M lying South of the County Road, consisting of 12 acres, more or less; AND the SW2 of the SW4 of Section 24, Township 18 North, Range 22 East of the IB&M lying South and East of the County road, consisting of 12 acres, more or less;

LESS AND EXCEPT the following property to-wit: Commencing at the SE corner of Section 24, Township 18 North, Range 22 East, Cherokee County, Oklahoma; thence N89°53'47"W, a distance of 953.53 feet; for the true point of beginning; thence N89°53'47", a distance of 788.37 feet, to the centerline of the existing County roadway; thence N52°27'26"E, a distance of 167.06 feet; thence N61°09'53"E, a distance of 391.58 feet; thence N67°04'02"E, a distance of 210.67 feet; thence S17°37'21"E, a distance of 392.60 feet to the true point of beginning, containing 3.70 acres, more or less.

Peyton's Place's operations include but are not limited to cabins, camp grounds, a club house, showers, bathrooms, canoe and raft rental and a private sewage system. Upon information and belief, Peyton's Place also systematically applies fertilizers and other chemicals to the property into the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Peyton's Place's conduct and operations, which has been permitted on the property by the Peyton Family Trust, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.



88. Third Party Defendants, George and John T. Cripps own and operate property located at County Road 4551, Proctor, Oklahoma, more specifically identified as:

North One-Half of the Northwest Quarter of the Southeast Quarter (N/2 NW SE) and the South One-Half of of the South One-Half of the Northwest Quarter (S/2 S/2 NW) and the Southwest Quarter (SW) and Section 4; and the East One-Half of the Southeast Quarter of the Southeast Quarter (E/2 SE SE) of Section 5, all in Township 18 North, Range 23 East, Cherokee County, State of Oklahoma, LESS Tracts 1 through 89 of the White Platt, being located in Section 4, Township 18 North, Range 23 East.

George and John T. Cripps' activities on the property include but are not limited to a mobile home park, cabins and a private sewage system. Moreover, George and John T. Cripps have failed to maintain proper riparian buffers along the Illinois River or its tributaries which in turn has created serious and systematic bank erosion. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then George and John T. Cripps' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

89. Third Party Defendant, Eurma White owns and operates Baron Fork Creek Camp located in the IRW, more specifically identified as:

A tract of land in the SE SE of Section 27, Township 17 North, Range 25 East, Adair County, Oklahoma, more particularly described as follows: Commencing at the SE corner of Section 27, Township 17 North, Range 25 East, for the true point of beginning; thence West 262.93 feet; thence N 00°16'38"E, 293.55 feet; thence West 290.00 feet to the East right-of-way

line of U.S. Highway #59; thence along said right-of-way N 20°58'23"E, 92.41 feet; thence Northeasterly on a curve to the right, having a radius of 3240.53 feet, a distance of 70.44 feet; thence N 75°37'22"W, 20.18 feet; thence Northeasterly on a curve to the right having a radius of 3240.53 feet, a distance of 124.13 feet, thence S 75°59'32"E, 493.94 feet, thence S 00°16'38"W, 450.00 feet to the point of beginning;

and

#### TRACT NO. 1

The N1/2 of SW1/4 of SW1/4 of Section 26, Township 17 North, Range 25 East, less and except K.C.S. Railroad right-of-way; and Commencing at the NW corner of the SW1/4 of Section 26, Township 17 North, Range 25 East, Adair County, Oklahoma; thence N. 89°57'00" E., 723.22 feet to the East right-of-way line of U.S. Highway 59; thence S. 31°54'20"W along said right-of-way line, 1090.42 feet for the true point of beginning thence S. 58°05'40" E., 150 feet S. 31°54'20"W to the intersection of the South line of the S1/2 of NW1/4 of SW1/4 thence S 89°57'00" W to the SE corner of the S1/2 of NW1/4 of SW1/4 thence North along the Section line 158.98 feet; thence N31°54'20" E. 277.97 feet to the point of beginning; and

#### TRACT NO. 2

That portion of the SE SE of Section 27, Township 17 North, Range 25 East, lying East of Highway No. 59, and described as follows: Beginning at a point which is N. 0°16'38"E., 450.00 feet from the SE corner of said SE1/4 of SE1/4; thence N. 0°16'38"E., 870.0 feet to the NE corner of said SE SE; thence S. 89°48'58"W., 114.12 feet to the East line of Highway No. 59 right-of-way; thence S. 32°23'W., 311.64 feet; thence along a curve to the left, having a radius of 1860.1 feet, a distance of 71.03 feet, thence S. 64°53'30"E., 112.0 feet; thence S. 25°06'30"W., 306.8 feet; thence N. 64°53'30"W., 112.0 feet; thence along the East line of Highway No. 59 right-of-way 155.9 feet to a point which is N. 75°54'12" W., 496.0 feet from the point of beginning; thence s. [sic.] 75°54'12"E., 496.0 feet to the point of beginning; and

#### TRACT NO. 4

A tract of land in the NE1/4 of SE1/4 of SE1/4 of Section 27, Township 17 North, Range 25 East, more particularly described as follows: Beginning at a point 686.7 feet North and 336.5 feet West of the SE corner of said Section, thence N. 17°24' E., 289.8 feet to a point, thence N. 72°36'W., to a point on the East right of way of Highway 59, thence in a Southwest direction on a curve to the left along East right of way 294.8 feet to a point thence S. 72°36' E., 112 feet to the point of beginning, LESS AND EXCEPT: Beginning at a point 686.7 feet North and 336.5 feet West of the SE corner of Section 27, Township 17 North, Range 25 East, thence N. 17°24' E., 289.8 feet to a point; thence N. 72°36'W., to a point on the East right of way of U.S. Highway #59 for a point of beginning proper; thence in a SW direction along East right of way of U.S. Highway #59 95 feet; thence S. 72°36' E., 94 feet; thence Northeasterly parallel to highway



right of way 95 feet; thence North 72°36'W., 94 feet to the point of beginning proper.

Baron Fork Creek Camp's operations include but are not limited to the maintenance and operation of camping grounds and a private sewage system. Upon information and belief, Eurma White also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Baron Fork Creek Camp and Eurma White's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

90. Third Party Defendants, Ewell Van and Alice L. Earl own and operate Pettit Bay Cabins & Grocery at 20204 W. Pettit Bay Road, Park Hill, Oklahoma in the IRW, more specifically identified as:

Lot 3,4,5,6,7,8 and 9 in Block 2 of Petit Bayside Homes, a Subdivision of the NE4 of the NW4 of Section 26, and the S2 of SE4 of SE4 Of SW4 of Section 23, all in Township 15 North, Range 22 East in Cherokee County, Oklahoma, according to the official plat thereof.

Pettit Bay Cabins & Grocery's operations include but are not limited to cabin rentals, mobile homes, grocery store, RV hookups, the maintenance and operation of grounds, and a private sewage system. Upon information and belief, Pettit Bay Cabins & Grocery also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third

Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Pettit Bay Cabins & Grocery's conduct and operations, which has been permitted by Ewell Van and Alice L. Earl, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

91. Third Party Defendants, Kevin R. and Barbara L. Kelley own and operate Diamond Head Resort in the IRW, more specifically identified as:

A tract of land commencing at the NW corner of Section 1, Township 17 North, Range 22 East, Cherokee County, Oklahoma; Thence S00°36'00"W, a distance of 33.00 feet; thence S88°38'00"E, a distance of 1310.79 feet; for the true point of beginning; Thence S12°06'14"W, a distance of 542.68 feet; Thence N86°26'21"W, a distance of 459.16 feet; Thence S03°17'12"E, a distance of 538.57 feet; Thence S64°46'43"W, a distance of 320.19 feet; Thence N60°39'43"W, a distance of 789.48 feet to the easterly right of way line of Oklahoma State Highway 10, thence southwesterly, along a 03°51'54" curve to the right, having a radius of 1482.40 feet and a central angle of 16°32'21", for a distance of 427.91 feet; Thence S22°19'00"W, a distance of 441.71 feet; Thence S89°08'00" E, a distance of 462.90 feet, to a point on the west line of said section 1, being 1683.00 feet south of the NW corner of Section 1; Thence S89°08'00"E, a distance of 1469.00 feet, to a point on the centerline of the Illinois River; Thence in a northeasterly direction, meandering along the centerline of the Illinois River, to a point 276.00 feet south of the north boundary of said section 1; Thence N89°35'00"W, a distance of 360.00 feet; Thence N34°15'00"W, a distance of 268.00 feet; Thence N88°38'00"W, a distance of 85.81 feet to the true point of beginning.

Diamond Head Resort's operations include but are not limited to a motel, camp sites, canoe and raft rental, bathhouse, private sewage system, plant and tree nursery and portapotties along the Illinois River. Upon information and belief, Diamond Head Resort also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third

Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Diamond Head Resort's conduct and operations, which has been permitted on the property by Kevin R. and Barbara L. Kelley, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

92. Third Party Defendants, Kenneth and Jane Spencer and James C. Geiger, own and operate Spencer Ridge Resort located at Route 1, Box 222, Kansas, Oklahoma in the IRW, more specifically identified as:

An Undivided One-Half (1/2) Interest in the North Half of the Northeast Quarter of the Northwest Quarter (N/2 NE/4 NW/4) of Section 35, Township 20 North, Range 24 East, Delaware County, Oklahoma, containing twenty (20) acres, more or less.

Spencer Ridge Resort's operations include but are not limited to a rental cabins, grocery store, RV hookups, canoe and raft rental, and a private sewage system. Upon information and belief, Spencer Ridge Resort also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Spencer Ridge Resort's conduct and operations, which has been permitted on the property by Kenneth and Jane Spencer and James C. Geiger, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

93. Third Party Defendants, Jack and Brenda Spears own and operate Pine Valley Cabins located at 7687 Highway 10, Tahlequah, Oklahoma in the IRW, more

specifically identified as:

All that part of the SW4 of the SW4 of Section 5, Township 18 North, Range 23 East, lying West of the Illinois River, LESS that part being platted as ARROWHEAD CAMP SUBDIVISION FIRST ADDITION, being a part of the W2 SW4 SW4 of said Section 5, Cherokee County, Oklahoma, AND All that part of the NW4 of the NW4 of Section 8, Township 18 North, Range 23 East, lying West of the Illinois River, Cherokee County, Oklahoma;

and

Lots 1,2,3,4,5,6,12,13,14,15,16,18,20,21,23 and 24 in ARROWHEAD CAMP SUBDIVISION FIRST ADDITION, being part of the W2 of the SW4 of the SW4 of Section 5, Township 18 North, Range 23 East, according to the official plat thereof, Cherokee County, Oklahoma, AND All that part of the NW4 of the NW4 of Section 8, Township 18 North, Range 23 East, according to the official plat thereof, Cherokee County, Oklahoma.

Pine Valley Cabins' operations include but are not limited to rental cabins and a private sewage. Upon information and belief, Pine Valley Cabins also systematically applies fertilizers and other chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Pine Valley Cabins' conduct and operations, which has been permitted on the property by Jack and Brenda Spears, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

94. Third Party Defendants, Stephen R., Jenni and Brian R. Hamrick own and operate Hanging Rock Camp and Store located at 23064 Hanging Road, Tahlequah, Oklahoma in the IRW, more specifically identified as:

A tract of land lying in and being part of the SW/4 of the NW/4 of Section 5, Township 10 North, Range 23 East of the Indian Base and Meridian,

Cherokee County, Oklahoma; more particularly described as: Beginning at the SE Corner of the SW/4 of the NW/4 of said Section 5, thence S89°41'01"W a distance of 201.26 feet along the south line NW/4 to the easterly right of way line of SH10; thence on a curve to the right having a radius of 359.26 feet a distance of 202.55 feet (Chord bearing = N29°42'35"E - chord distance = 200.02 feet) along right of way line; thence N45°25'27"E a distance of 140.16 feet along right of way line to the east line of the the SW/4 of the NW/4 of said Section 5; thence S0°28'55"E along said east line SW/4 NW/4 a distance of 271.00 feet to the Point of Beginning. Tract contains 0.75 acre more or less; and

A tract of land lying in and being a part of the SW1/2 of the NW1/4 and a part of Lot 4 of Section 5, Township 10 North, Range 23 East of the Indian Base and Meridian, Cherokee County, Oklahoma; more particularly described as: Beginning at the SE Corner of the SW/4 of the NW/4 of said Section 5, thence S89°41'01"W a distance of 283.35 feet to the Point of Beginning; said point being on the westerly right of way line of State Highway 10; thence on a curve to the right having a radius of 449.25 feet a distance of 255.73 feet (Chord bearing = N28°24'56"E Chord distance = 262.83 feet) along right of way line; thence N45°25'27"E along right of way line a distance of 217.57 feet to the east line of the SW/4 of the NW/4; thence N37°01'13"W a distance of 1104.10 feet; thence S6°11'53"W a distance of 312.73 feet; thence S17°43'08"E a distance of 221.66 feet; thence S27°36'02"E a distance of 364.92 feet; thence S33°53'17"E a distance of 376.24 feet; thence S43°54'46"E a distance of 308.46 feet; thence S43°21'01"E a distance of 276.66 feet to the Point of Beginning. Tract contains 14.45 acres more or less; and

A tract of land in the E1/2 of the SW1/4 of the NW1/4 of Section 5, Township 18 North, Range 23 East, more particularly described as follows: Beginning at a point in the East Boundary Line of the E1/2 of the SW1/4 of the NW1/4, 760 feet North of the Southeast Corner thereof; [sic.] thence North along said East Boundary Line, a distance of 482.5 feet; thence S88\*[sic.]34'W a distance of 67.7 feet; thence S16\*[sic.]07' W a distance of 324.6 feet; thence S55\*[sic.]55' W a distance of 157 feet; thence S37\*[sic.]20' W a distance of 35.0 feet; thence S2\*[sic.]55' E a distance of 45.0 feet; thence S44\*[sic.]20' E a distance of 162.0 feet; thence N83\*[sic.]00' E a distance of 58.0 feet; thence N53\*[sic.]24' E a distance of 169.0 feet to the point of beginning, Cherokee County, Oklahoma.

The Hanging Rock Camp and Store's operations include but are not limited to a café, rental cabins, campgrounds, canoe rental and a private sewage system. Upon information and belief, Hanging Rock Camp and Store also systematically applies fertilizers and other

chemicals to the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Hanging Rock Camp and Store's conduct and operations, which has been permitted on the property by Stephen R., Jenni and Brian R. Hamrick, and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

95. Third Party Defendant, Tahlequah Livestock Auction, Inc. has legal title to property located at 1841 W. Choctaw Street, Tahlequah, Oklahoma, more specifically identified as:

All that part of the N2 of NE4 of NW4 lying West of the Westerly boundary of Oklahoma State Highway No. 82, in Section 21, Township 16 North, Range 22 East, Cherokee County, Oklahoma, containing 15 acres, more or less.

Tahlequah Livestock Auction's activities include but are not limited to the livestock auctions wherein holding pins are used to temporarily contain the livestock during sales. Upon information and belief, the Tahlequah Livestock Auction permits livestock to deposit manure on the property within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Tahlequah Livestock Auction's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

96. Third Party Defendants, Gordon W. and Susann Clinton have legal title to property located at County Road 07070, Welling, Oklahoma, more specifically identified by the following legal description:

The S2 of the N2 of the NW4 of the SE4 and the S2 of the NW4 of the SE4 and the SW4 of the SE4 less the SW4 of the SW4 of the SE4 and the S2 of the SE4 of the SE4 less the SE4 of the SE4 of the SE4 lying East of public roadway, and the S2 of the N2 of the NE4 of the SW4 less the West 330 feet thereof, and the S2 of the NE4 of the SW4 less the North 330 feet of the West 330 feet thereof and less a parcel of land located in the S2 of the NE4 of the SW4 described as follows, to-wit: Beginning at a point 393 feet West and 1,605 feet North of the South one-quarter corner of Section 31, Township 16 North, Range 23 East; thence West a distance of 626.10 feet; thence N 00°08'00"W for a distance of 313.05 feet; thence East for a distance of 626.10 feet; thence S 00°08'00"E, for a distance of 313.05 feet to the point of beginning, and less a parcel of land located in the S2 of the NE4 of the SW4, described as follows, to-wit: beginning at a point, said point being 393.00 feet West and 1,615.00 feet North of the South 1/4 corner of Section 31, Township 16 North, Range 23 East; thence N 00°08'00"W for a distance of 303.05 feet; thence East for a distance of 287.52 feet; thence S00°08'00"E, for a distance of 303.05 feet; thence West for a distance of 287.52 feet to the point of beginning, and the SE4 of the SW4 less the S2 of the SE4 of the SW4 and less the South 197.72 feet of the NW4 of the SE4 of the SW4, all being in Section 31, Township 16 North, Range 23 East of the Indian Base and Meridian, according to the Official U.S. Survey thereof, Cherokee County, Oklahoma.

Upon information and belief, Gordon W. and Susann Clinton permit cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Gordon W. and Susann Clinton's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

97. Third Party Defendants, Perry and Norma Williams have legal title to property located at 4722 Rd., Watts, Oklahoma, more specifically identified by the following legal description:

The S1/2 of SE1/4 of Section 3 and the NE1/4 of Section 10, Township 19 North, Range 25 East.

Upon information and belief, Perry and Norma Williams permit cattle to graze and deposit manure some or all of the above referenced property which is within the IRW. Additionally, Perry and Norma Williams have permitted Twin City Construction, Inc. to gravel mine on their property, and have also systematically applied fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Perry and Norma William's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

98. Third Party Defendant, Twin City Construction, Inc. has engaged in gravel mining on the property of Third Party Defendants, Perry and Norma Williams, the property is more specifically identified in Paragraph No. 97. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Twin City Construction, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to



Third Party Plaintiffs under the theories of contribution and/or indemnity.

99. Third Party Defendants, Elmo Eddings, Charlene Eddings Long, LaDonna Eddings Caviness, Thomas E. Eddings, Sue Eddings Shankle and Bonnie Eddings Kile have legal title to property located at 26367 Hwy 62, Tahlequah, Oklahoma, more specifically identified by the following legal description:

The E2 of the SE4 and the NE4 of the SW4 of the SE4 and the SE4 of the NW4 of the SE4 of Section 14, Township 17 North, Range 23 East of the Indian Base and Meridian, containing 100 acres, more or less.

Upon information and belief, Elmo Eddings, Charlene Eddings Long, LaDonna Eddings Caviness, Thomas E. Eddings, Sue Eddings Shankle and Bonnie Eddings Kile permit cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Elmo Eddings, Charlene Eddings Long, LaDonna Eddings Caviness, Thomas E. Eddings, Sue Eddings Shankle and Bonnie Eddings Kile systematically apply fertilizers and other chemicals to their land for hay production. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Elmo Eddings, Charlene Eddings Long, LaDonna Eddings Caviness, Thomas E. Eddings, Sue Eddings Shankle and Bonnie Eddings Kile's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

100. Third Party Defendants, Floyd Simmons has legal title to property located at County Road 05185, Stilwell, Oklahoma, more specifically identified by the following

legal description:

NE NE NE, less a tract beginning at the NE corner thereof, thence South on the East line of said 10 acres to the center of branch, thence in a Northwesterly direction with center of branch to the intersection of the North line of said 10 acres, hence East of the North line of said 10 acres to the place of beginning; and the NW NE NE and SW NE NE and W1/2 SE NE NE and North 528 feet of E1/2 SE NE NE and E1/2 NW NE and NE SW NE and NW SE NE of Section 35, and a tract of land beginning 132 feet North of the SW corner of the SW NW NW of Section 36, thence East to the intersection of the center of a dry branch, thence meandering Northwesterly along the center of dry branch to the intersection of the West line of the NW NW NW, thence South along West line of NW NW to point of beginning, all in Township 17 North, Range 24 East; and ALL that part of NE SE SE lying and being West of County Road and all that part of SE NE SE lying and being South of County Road, in Section 26, and all that part of SW NW SW lying and being West of County Road and all that part of SW NW SW lying and being West and South of County Road and all that part of NW SW SW lying and being West of County Road in Section 25, all in Township 17 North, Range 24 East, less acreage for Church and School purposes;  
and  
E1/2 NW NE and SW NE of Section 27, Township 17 North, Range 24 East.

Upon information and belief, Floyd Simmons permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Floyd Simmons' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

101. Third Party Defendants, William and Cherrie House have legal title to property located at 1841 W. Choctaw St., Tahlequah Oklahoma, more specifically identified by the following legal description:

A tract of land lying in the West 1/2 Section 14, Township 17 North, Range 24 East of the Indian Base and Meridian, Adair County, Oklahoma; more particularly described as: Beginning at the SW corner of said Section 14; thence N 0°09'03" W along West line a distance of 2899.10 feet to the centerline of existing county road; thence N 85°42'28" E along road a distance of 327.39 feet; thence N 81°57'48" E along road a distance of 196.93 feet; thence N 51°59'57" E a distance of 150.18 feet; thence N 27°42'20" E along road a distance of 242.57 feet; thence S 89°27'44" E along road a distance of 434.28 feet; thence S 3°02'39" W a distance of 349.35 feet along road; thence S 8°17'31" E along a road a distance of 415.99 feet; thence S 14°45'40" E along road a distance of 427.49 feet; thence S 0°16'09" E along road a distance of 349.29 feet; thence S 16°17'33" W along road a distance of 389.09 feet; thence S 12°04'21" E along road a distance of 410.76 feet; thence S 19°52'54" E along road a distance of 217.19 feet; thence S 5°10'35" W along road a distance of 746.88 feet to the south line of said Section 14; thence S 89°33'40" W a distance of 1315.56 feet to the point of beginning.

#### ROAD EASEMENT

A strip of land being 15.00 feet each side of a line beginning on the south line of Section 11, Township 17 North, Range 24 East of the Indian Base and Meridian, Adair County, Oklahoma; a distance of 1291.12 feet N 89°47'15" E from the SW corner thereof; thence N 14°41'18" W a distance of 368.87 feet; thence N 5°50'43" E a distance of 642.54 feet; thence N 69°22'24" E a distance of 231.74 feet to the south right of way line of US Hwy. 62; all in Section 11, Township 17 North, Range 24 East; and

Beginning on the North line of Section 14, Township 17 North, Range 24 East of the Indian Base and Meridian, Adair County, Oklahoma; said point being 1291.21 feet N 89°47'15" E of the NW corner of said Section 14; thence S 14°41'18" E a distance of 571.48 feet; thence S 13°49'58" W a distance of 492.89 feet; thence S 01°38'37" W a distance of 453.39 feet; thence S 15°42'13" W a distance of 286.70 feet; thence S 7°30'13" W a distance of 273.38 feet to the road junction.

Upon information and belief, William and Cherrie House permit cattle and horses to graze and deposit manure on some or all of the above referenced property which is within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then William and Cherrie House's conduct and

operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

102. Third Party Defendants, Ricky and Tonya Fowler have legal title to property located at Indian Road 4491 Rd, Park Hill, Oklahoma, more specifically identified by the following legal description:

All that part of the N2 of the NW4 lying Easterly and Southerly of the Indian Road Highway Right of Way and the NW4 of the NE4 and all that part of Lot 2 less the Southeast 10 acres thereof lying Easterly of the Indian Road Highway Right of Way and the N2 of the NW4 of the SE4 of the NW4 and the E2 of the SW4 of the SE4 of the NW4 and the E2 of the SE4 of the NW4 and the S2 of the NE4, all in Section 18, Township 14 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma.

Upon information and belief, Ricky and Tonya Fowler permit cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Ricky and Tonya Fowler systematically apply fertilizers and other chemicals to their land for hay production. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Ricky and Tonya Fowler's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

103. Third Party Defendants, Billy D. and Norma Glenn have legal title to property located at 21399 E. 556 Road, Colcord, Oklahoma, more specifically identified by the following legal description:

SW1/4 SW1/4 NW1/4: Section 15, Township 20 North, Range 25 East, containing 50 acres, more or less.

and;

All that part of the S1/2 S1/4 NE1/4 and N1/2 NE1/4 SE1/4 of Section 10, Township 20 North, Range 25 East, lying West of the centerline of the County Road, LESS and EXCEPT the following described tract of land, to-wit: Beginning at the NW corner of the said S1/2 SE1/2 NE1/4, thence East 322 feet, thence in a Southwesterly direction to a point 552 feet South of the NW corner of said S1/2 SE1/2 NE1/4 thence North 394 feet to the point of beginning and including the following tracts, to-wit: A tract of land in the SW1/4 NE1/4 of section 10, Township 20 North, Range 25 East, described as: Beginning at the SE corner of the said SW1/2 NE1/4, thence West 132 feet, thence North-east 377 feet, thence South 358 feet to the point of beginning. and A tract of land in the NW1/4 of the SE1/4 described as follows: Beginning at the NE corner of the NW1/4 of the SE1/4, thence West 126 feet, thence South 660 feet, thence East 126 feet, thence North 660 feet to the point of beginning, being located in Section 10, Township 20 North, Range 25 East.

Upon information and belief, Billy D. and Norma Glenn permit cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Billy D. and Norma Glenn systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Billy D. and Norma Glenn's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

104. Third Party Defendants, David Albert and Bobbie Ann Stratton have legal title to property located at 20568 W. 915 Road, Cookson, Oklahoma, more specifically identified by the following legal description:

The South Half of the East Half of the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (S1/2 E1/2 SE1/4 NW1/4 NE1/4); and , that part of the North Half of the East Half of the Northeast Quarter of the Southwest Quarter of the Northeast Quarter (N1/2 E1/2 NE1/4 SW1/4 NE1/4) lying Northeasterly of the County Road, all in Section 14, Township 14 North, Range 22 East.

and;

The West Half of the Northwest Quarter of the Northeast Quarter (W1/2 NW1/4 NE1/4) and the west Half of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (W1/2 NE1/4 NW1/4 NE1/4) and the North Half of the Southeast Quarter of the Northwest quarter of the Northeast quarter (N1/2 SE1/4 NW1/4 NE1/4) and the Southwest Quarter of the Southeast Quarter of the Northwest Quarter of the Northeast Quarter (SW1/4 SE1/4 NW1/4 NE1/4) all in Section Fourteen (14), Township Fourteen (14) North, Range Twenty-two (22) East.

and;

All that part of the following tracts lying and being south-westerly of the 670' mean sea level contour, to-wit: The Northeast Quarter of the Southwest Quarter of the Northeast Quarter of the Northeast Quarter (NE1/4 SW1/4 NE1/4 NE1/4); and, The Northwest Quarter of the Southwest Quarter of the Northeast Quarter of the Northeast Quarter (NW1/4 SW1/4 NE1/4 NE1/4); and The Southwest Quarter of the Northwest Quarter of the Northeast Quarter of the Northeast Quarter (SW1/4 NW1/4 NE1/4 NE1/4); and the Southwest Quarter of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (SW1/4 NE1/4 NW1/4 NE1/4); and The Northeast Quarter of the Northeast Quarter of the Northwest Quarter of the Northeast Quarter (NE1/4 NE1/4 NW1/4 NE1/4); all located in Section Fourteen (14), Township Fourteen (14) North, Range Twenty-two (22) East.

and;

A tract of land in N2 of the SW4 of the NE4 of Section 14, Township 14 North, Range 22 East of the I.B.M., Cherokee County, Oklahoma. More particularly described as follows: Beginning at the NW corner of the SW4 of the NE4; thence S89°50'49"E along the North line of the N2 of the SW4 of the NE4 of the said Section 14 a distance of 174.06 feet; thence S11°19'25"W, 7.5 feet to a point in the center line of an asphalt county road; thence Easterly along the asphalt county road to a point on the West line of the NE4 of the NE4 of the SW4 of the NE4 of the said Section 14; thence North along the West line of the NE4 NE4 SW4 NE4 to the NW corner of the NE4 NE4 SW4 NE4 of the said Section 14; thence East along the North line of the NE4 NE4 SW4 NE4 to a point inline with an asphalt county road running Southerly; thence Southerly along the center line of the asphalt county road to a point on the South line of the NE4 NE4 SW4 NE4 of the said Section 14; thence East along the South line of the NE4 NE4 SW4 NE4 of the said Section 14 to the NE corner of the SE4 NE4 SW4 NE4 of the said Section 14; thence South along the East line of

the SE4 NE4 SW4 NE4 of the said Section 14 to the SE corner of the SE4 NE4 SW4 NE4; thence West along the South line of the N2 SW4 NE4 to the SW corner of the N2 SW4 NE4; thence North along the West line of the N2 SW4 NE4 to the Point of Beginning. AND

A tract of land in the NW4 of NW4 of SE4 of Section 14, Township 14 North, Range 22 East of the I.B.M., Cherokee County, Oklahoma. More particularly described as follows: Beginning at the NW corner of the NW4 NW4 SE4 of the said Section 14; thence East along the North line of the NW4 NW4 SE4 to the NE corner of the NW4 NW4 SE4 of the said Section 14; thence South along the East line of the NW4 NW4 SE4 to the SE corner of the NW4 NW4 SE4; thence West along the South line of the NW4 NW4 SE4 to a point 394.55 East of the SW corner of the NW4 NW4 SE4 of the said Section 14; thence N6°44'42"W a distance of 406.00 feet; thence N20°26'35"W a distance of 109.00 feet; thence N47°49'54"W a distance of 92.50 feet; thence N70°47'24"W a distance of 254.50 feet to the Point of Beginning. AND SW4 SE4 NE4 and E2 SE4 NE4 and E2 NE4 SE4 of Section 14, Township 14 North, Range 22 East of the I.B.M., Cherokee County, Oklahoma. AND All that part of the S2 SW4 NE4 and E2 NW4 SE4 and NW4 NE4 SE4 and N2 SW4 NE4 SE4 of Section 14, Township 14 North, Range 22 East of the I.B.M., Cherokee County, Oklahoma. LESS AND EXCEPT THE FOLLOWING TRACT: The West 150.0 feet of the NW4 NE4 SE4 and the East 510.0 feet of the NE4 NW4 SE4 of Section 14, Township 14 North, Range 22 East of the IB&M, Cherokee County, Oklahoma. And a tract of land in SW4 SW4 NE4 SE4 of Section 14, Township 14 North, Range 22 East of the I.B.M., Cherokee County, Oklahoma. More particularly described as follows: Beginning at the SW corner of the SW4 SW4 NE4 SE4 of the said Section 14; Thence N74°13'12"E 342.54 feet to a point on the East line of the SW4 SW4 NE4 SE4; thence North along the East line of the SW4 SW4 NE4 SE4; thence North along the East line of the SW4 SW4 NE4 SE4 to the NE corner of the SW4 SW4 NE4 SE4 of the said Section 14; thence West along the North line of the SW4 SW4 NE4 SE4 to the NW corner of the SW4 SW4 NE4 SE4 of the said Section 14; thence South along the West line of the SW4 SW4 NE4 SE4 to the Point of Beginning.

and;

A tract of land in the NE4 SW4 SE4 of Section 14, Township 14 North, Range 22 East of the I.B.M., Cherokee County, Oklahoma. More particularly described as follows: Beginning at a point 182.95 feet North of the SW corner of the N2 of the NE4 SW4 SE4 of the said Section 14; thence East to a point 476.19 feet East and 145.41 feet South of the NW corner of the NE4 SW4 SE4 of the said Section 14; thence North 145.41 feet to the North line of the NE4 SW4 SE4; thence West along the North line of the NE4 SW4 SE4 to the NW corner of the NE4 SW4 SE4; thence South along the West line of the NE4 SW4 SE4 to the Point of Beginning.

and;

A tract of land located in the N2 SE4 SE4 of Section 14, Township 14



North, Range 22 East of the I.B.M., Cherokee County, Oklahoma. More particularly described as follows: Beginning at the SE corner of the N2 SE4 SE4 of the said Section 14; thence N0°08'01"W, 658.91 feet; thence N89°47'52"W, 660.10 feet; thence S0°05'56"E, 32.86 feet; thence N85°41'21"E, 55.61 feet; thence S76°59'13"E, 139.32 feet; thence S67°55'43"E, 263.63 feet; thence S24°14'21"E, 550.67 feet to the Point of Beginning.

and;

The S2 and S2 of the S2 of the N2 of Section 13, Township 14 North, Range 22 East, According to the U.S. Survey thereof. Less all that part lying South and East of Highway No. 82. And less and except: A tract of land lying in and being a part of the S2 of the SE4 of the NE4 and the NE4 of the NE4 of the SE4 of Section 13, Township 14 North, Range 22 East of the IB&M, Cherokee County, Oklahoma, more particularly described as: Commencing at the SE/Corner of the NE4 of said Section 13, said point being the point of beginning; thence N0°02'19"W, a distance of 660.59 feet; thence S89°54'20"W, a distance of 1032.85 feet; thence S37°45'28"E, a distance of 206.59 feet, thence S76°03'43"E, a distance of 255.75 feet; thence S27°18'50"E, a distance of 320.52 feet; thence S68°38'51"E, a distance of 338.35 feet; thence S58°03'01"E, a distance of 231.51 feet; thence N0°02'19"W, a distance of 96.53 feet to the point of beginning; and

All that part of N2 of the NE of Section 24, Township 14 North, Range 22 East of the I.B.M., Cherokee County, Oklahoma. Lying North and West of Highway #82.

and;

All that part of the NW4, NW4, NW4, NW4 of Section 24, Township 14 North, Range 22 East of the I.B.M., Cherokee County, Oklahoma.

and;

The W2 of the SW4 of the SW4 of the NW4 and all that part of Lots 3 and 4 lying North and West of Highway #82, all in Section 18, Township 14 North, Range 23 East, according to the United States Survey thereof. Less and except the following described tract: a tract of land lying in and being part of the NW4 of the SW4 of Section 18, Township 14 North, Range 23 East of the Indian Base and Meridian, Cherokee County, Oklahoma. More particularly described as: commencing at the SW corner of the NW4 of said Section 18, said point being the Point of Beginning; thence S0°02'19"E, a distance of 96.53 feet; thence S58°03'01"E, a distance of 34.61 feet; thence S53°34'56"E, a distance of 406.49 feet; thence S41°00'44"E, a distance of 423.53 feet; thence N86°53'39"E, a distance of 323.56 feet to a point on the West Right of Way State Highway #82; thence along the Right of Way on a curve to the left having a radius of 522.96 feet (Chord distance=178.29 feet, Bearing= N9°16'20"E) a distance of 182.79 feet; thence N0°32'38"W along Right of Way a distance of 95.23 feet; thence along Right of Way on a curve to the left having a radius of 666.20 feet (Chord distance =318.00 feet,



Bearing=N14°21'08"W), a distance of 321.10 feet; thence N27°58'49"W along Right of Way, a distance of 87.50 feet; thence N89°53'18"W, a distance of 865.50 feet to the Point of Beginning.

Upon information and belief, David Albert and Bobbie Ann Stratton permit cattle to graze and deposit manure on some or all of the above referenced property which is within tributaries within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then David Albert and Bobbie Ann Stratton's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

105. Third Party Defendants, Robert A. and Sylvia S. Smith are Trustees of the Robert A. Smith Trust which owns property located at 21048 E. 810, Tahlequah, Oklahoma, more specifically identified by the following legal description:

Beginning at the Southeast corner of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter (NW1/4 SE1/4 NW1/4) of Section Twenty-five (25), Township Sixteen (16) North, Range Twenty-two (22) East for the true point of beginning: THENCE N89°18'05"W for a distance of 256.5 feet; THENCE N00°03'44"W for a distance of 160.80 feet; THENCE S89°18'05"E for a distance of 103.00 feet; THENCE S00°03'44"E for a distance of 30.00 feet; THENCE S89°18'05"E for a distance of 153.50 feet; THENCE S00°03'44"E for a distance of 130.80 feet: to the true point of beginning, containing 0.84 acres more or less. With a 30.00 feet wide roadway easement for egress and ingress being 15.00 feet on each side of a centerline more particularly described as: commencing at the Southeast corner of the Northwest Quarter of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter (NW1/4 SE1/4 SE1/4 NW1/4) of Section Twenty-five (25), Township Sixteen (16) North, Range Twenty-two (22) East; THENCE N89°18'05"W for a distance of 256.50 feet; THENCE N00°03'44"W for a distance of 105.30 feet; for the true point of

beginning; THENCE S86°07'30"W for a distance of 832.27 feet; THENCE N32°08'30"W for a distance of 331.00 feet; THENCE N00°41'00"W for a distance of 659.00 feet; THENCE N47°50'00"W for a distance of 203.00 feet: to an existing cattle-guard, and an existing county road. An undivided one-half interest in and to: The East 298.5 feet the Northeast Quarter of the Southwest Quarter of the Northwest Quarter (NE1/4 SW1/4 NW1/4); and the Southeast Quarter of the Southwest Quarter of the Northwest Quarter (SE1/4 SW1/4 NW1/4); and the North Half of the Southwest Quarter of the Southeast Quarter of the Northwest Quarter (N1/2 SW1/4 SE1/4 NW1/4); and the Northwest Quarter of the Southeast Quarter of the Southeast Quarter of the Northwest Quarter; (NW1/4 SE1/4 SE1/4 NW1/4); and the Northwest Quarter of the Southeast Quarter of the Northwest Quarter (NW1/2 SE1/4 NW1/4); and the West Half of the Northeast Quarter of the Southeast Quarter of the Northwest Quarter (W1/2 NE1/4 SE1/4 NW1/4); and the Southwest Quarter of the Northeast Quarter of the Northwest Quarter (SW1/4 NE1/4 NW1/4); and the West Half of the Southeast Quarter of the Northeast Quarter of the Northwest Quarter (W1/2 SE1/4 NE1/4 NW1/4); and the Southeast diagonal one-half of the Northeast Quarter of the Southwest Quarter (SE Diagonal 1/2 NE1/4 SW1/4); and the West Half of the West Half of the Northwest Quarter of the Southeast Quarter (W1/2 W1/2 NW1/4 SE1/4); and the Southwest diagonal one-half of the East Half of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (SW Diagonal 1/2 E1/2 SW1/4 NW1/4 SE1/4); and the South Half of the Southwest Quarter (S1/2 SW1/4); and the Southwest Quarter of the Southwest Quarter of the Southeast Quarter (SW1/4 SW1/4 SE1/4); and the West Half of the Northeast Quarter of the Southwest Quarter (W1/2 NE1/4 NW1/4 SW1/4); and the Northwest diagonal one-half of the East Half of the Northeast Quarter of the Southwest Quarter (NW Diagonal 1/2 E 1/2 NE 1/4 NW1/4 SW1/4); and all that part of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4) lying North and East of the County Road, all in Section Twenty-five (25) and the West Half of the Northeast Quarter of the Northeast Quarter (W1/2 NE1/4 NE1/4); and the East Half of the Northwest Quarter of the Northeast Quarter (E1/2 NW1/4 NE1/4) of Section Thirty-five (35), all in Township Sixteen (16) North Range Twenty-two East of the I.B. & M.

Upon information and belief, the Robert A. Smith Trust permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, the Robert A. Smith Trust systematically applies fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and

other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the Robert A. Smith Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

106. Third Party Defendants, Rickey Hix, Danny Hix and Anna Marie Sanders have legal title to property located at 12231 N. 569 Rd., Proctor, Oklahoma, more specifically identified by the following legal description:

The SE4 of NW4 of SE4 and NE4 of SW4 of SE4 and SE4 of SW4 of SE4 of Section 36, Township 18 North, Range 22 East; and The E2 of the SE4 of the SW4 less 1½ acres thereof described as follows: Beginning at the NW corner of the said E2 of SE4 of SW4 and running thence East along North line thereof a distance of 150 feet to the West bank of a slough running across said tract, thence running in a Southerly direction along the bank of said slough, to the intersection of the West line of said 20 acre tract; thence North along the West line of said 20 acre tract a distance of 780 feet to the NW corner of said 20 acre tract the place of beginning; and all of the E2 of NE4 of SW4 and W2 of the W2 of the SE4 of Section 36, Township 18 North, Range 22 East of the Indian Meridian, containing 78½ acres of land more or less, according to the U.S. Survey thereof; and

Lots 1 and 2 and the East 20 acres of Lot 3, and the SW4 NE4 and the NE4 of SE4 of SE4 of Section 1, Township 17 North, Range 22 East, and the South 20.89 acres of Lot 4 and Lot 5, and the SW4 SE4 NW4 of Section 6, Township 17 North, Range 23 East; and A tract of land described as follows: Beginning at the Northwest corner of the NE4 of NE4 of NW4 of Section 1, Township 17 North, Range 22 East; thence South 1320 feet, thence East 660 feet, thence South 1320 feet; thence West 660 feet, thence South 1320 feet; thence West 525 feet to the Center of the Main Channel of the Illinois River, as the same now exists, thence in a Northerly direction along the Center of the Main Channel of said river to the Point of Beginning; containing 60 acres, more or less; and The W2 of the NE4 of the NE4 of the SW4 and the W2 of the SE4 of the NE4 of the SW4, of Section 1, Township 17 North, Range 22 East, Cherokee County, Oklahoma; and

The N2 of the SE4 of the NW4 and the SE4 of SE4 of NW4 of Section 6, Township 17 North, Range 23 East; and The SW4 of the NE4 of the SE4 of Section 6, Township 17 North, Range 23 East.

Upon information and belief, Rickey Hix, Danny Hix and Anna Marie Sanders permit cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Rickey Hix, Danny Hix and Anna Marie Sanders systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Rickey Hix, Danny Hix and Anna Marie Sanders' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

107. Third Party Defendants, Danny E. and Carolyn Hix have legal title to property located at 12231 N. 569 Rd., Proctor, Oklahoma, more specifically identified by the following legal description:

The E2 of W2 of NW4 and the SW4 of SW4 of NW4 and the N2 of SE4 of NW4 of Section 25, Township 18 North, Range 22 East, containing 70 acres, more or less, according to the U. S. Survey thereof.

and;

The SE4 of NW4 of SE4 and NE4 of SW4 of SE4 and SE4 of SW4 of SE4 of Section 36, Township 18 North, Range 22 East; and The E2 of the SE4 of the SW4 less 1½ acres thereof described as follows: Beginning at the NW corner of the said E2 of SE4 of SW4 and running thence East along North line thereof a distance of 150 feet to the West bank of a slough running across said tract, thence running in a Southerly direction along the bank of said slough, to the intersection of the West line of said 20 acre tract; thence North along the West line of said 20 acre tract a distance of 780 feet to the NW corner of said 20 acre tract the place of beginning; and all of the E2 of NE4 of SW4 and W2 of the W2 of the SE4 of Section 36, Township 18 North, Range 22 East of the Indian Meridian, containing 78½ acres of land more or less, according to the U.S. Survey thereof; and Lots 1 and 2 and the East 20 acres of Lot 3, and the SW4 NE4

and the NE4 of SE4 of SE4 of Section 1, Township 17 North, Range 22 East, and the South 20.89 acres of Lot 4 and Lot 5, and the SW4 SE4 NW4 of Section 6, Township 17 North, Range 23 East; and A tract of land described as follows: Beginning at the Northwest corner of the NE4 of NE4 of NW4 of Section 1, Township 17 North, Range 22 East; thence South 1320 feet, thence East 660 feet, thence South 1320 feet; thence West 660 feet, thence South 1320 feet; thence West 525 feet to the Center of the Main Channel of the Illinois River, as the same now exists, thence in a Northerly direction along the Center of the Main Channel of said river to the Point of Beginning; containing 60 acres, more or less; and The W2 of the NE4 of the NE4 of the SW4 and the W2 of the SE4 of the NE4 of the SW4, of Section 1, Township 17 North, Range 22 East, Cherokee County, Oklahoma; and The N2 of the SE4 of the NW4 and the SE4 of SE4 of NW4 of Section 6, Township 17 North, Range 23 East; and The SW4 of the NE4 of the SE4 of Section 6, Township 17 North, Range 23 East.

Upon information and belief, Danny E. and Carolyn Hix permit cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Danny E. and Carolyn Hix systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Danny E. and Carolyn Hix's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

108. Third Party Defendants, David R. and Robin L. Wofford have legal title to property located at 90 Road, Watts, Oklahoma, more specifically identified by the following legal description:

The SW/4 of NE/4 of Section 9, T-19-N, R-25-E.

Upon information and belief, David R. and Robin L. Wofford permit cattle to graze and

deposit manure on some or all of the above referenced property which is within the IRW. Additionally, David R. and Robin L. Wofford systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then David R. and Robin L. Wofford's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

109. Third Party Defendant, Haskell Brown has legal title to property located at 18752 S. 585 Rd., Stilwell, Oklahoma, more specifically identified by the following legal description:

The SE4 of NW4 and the NE4 of SW4 and the N/2 of SW4 of SE4, and a tract in NE4 of SE4 of SW4 to-wit: BEGINNING at the NE/Corner of said NE4 of SE4 of SW4; Thence South a distance of 412.5 feet; Thence West a distance of 140.25 feet, to the top of a hill; Thence Northwest a distance of 115.5 feet on a direct line to the top of a second hill; Thence Northerly, on a direct line, a distance of 305.25 feet, to a top of a third hill at a point 187.5 feet West of the Point of Beginning; Thence East 187.5 feet to the Point of Beginning, all being situate in Section 34, Township 17 North, Range 23 EIM, and containing 101.5 acres, more or less, according to the U.S. Survey

Upon information and belief, Haskell Brown permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Haskell Brown systematically applies fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the

Plaintiffs under their claims set forth in the Complaint (which is denied), then Haskell Brown's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

110. Third Party Defendant, John Nickle has legal title to property located at County 28406 Highway 82, Park Hill, Oklahoma, more specifically identified by the following legal description:

**Legal Description of Silica Sand Area**

Township 18 North, Range 23 East

All that part of the SW/4 of Section 28 lying South and East of the center of the existing Tully Hollow Road and lying North and West of a diagonal line from the Southeast corner of the W/2 SW/4 SE/4 SW/4 to the Southeast corner of the N/2 SE/4 NE/4 SW/4, all in Section 28; and

The S/2 SE/4 and the NE/4 SE/4 and the E/2 E/2 NE/4 and all that part of the SW/4 SE/4 NE/4 lying South and East of a diagonal line from the Southwest corner to the Northeast corner of said SW/4 SE/4 NE/4 and all that part of the E/2 E/2 NW/4 SE/4 lying South and East of a diagonal line from the Southwest corner to the Northeast corner of said E/2 E/2 NW/4 SE/4, all in Section 32; and;

The W/2 W/2 NW/4 and all that part of the E/2 NW/4 NW/4 and W/2 NW/4 NE/4 NW/4 lying North and West of a diagonal line from the Southwest corner of the E/2 NW/4 NW/4 to the Northeast corner of the W/2 NW/4 NE/4 NW/4 and all that part of the W/2 NW/4 SW/4 lying North and West of a diagonal line from the Southwest corner to the Northeast corner of said W/2 NW/4 SW/4, all in Section 33; All in Township 18 North, Range 23 East in Cherokee County, Oklahoma. Township 17 North, Range 23 East. Lot 1 and the North 19.2 acres of Lot 2, all in Section 5; all in Township 17 North, Range 23 East in Cherokee County, Oklahoma.

and;

The NW4 of NE4 and S2 of NE4 of NE4 and S2 of NE4 and SE4 of SE4 of NW4 of Section 35, and, the SW4 of NW4 of NW4 and W2 of SW4 of NW4 of Section 36 less a tract of land lying in and being a part of the W1/2 of the SW/4 of the NW/4 of Section 36, Township 19 north, Range 23 East, Cherokee County, Oklahoma, more particularly described as follows, to-wit: Beginning at the S/E corner of the W/2 of the SW/4 of the NW/4 of Said Section 39; thence N0°02'28"W along east line W/2 SW NW a distance of 1132.62 feet to the centerline of county road; thence S10°05'06"W along centerline of road a distance of 887.00 feet; thence S19°14'41"W along center of road a distance of 275.23 feet to the south line NW/4; thence N89°52'46"E on South line NW4 of a distance of 246.85 feet to the point of Beginning. Tract contains 2.76 acres more or less, all in Township 18 North, Range 23 East of the I.M., containing 180 acres, more or less, according to the U. S. Survey thereof.



Upon information and belief, John Nickle permits J5 Ranch, LLC to operate on his property. J5 Ranch's operations include but are not limited to raising cattle and cultivating hay. J5 Ranch permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, J5 Ranch systematically applies fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then J5 Ranch, LLC's conduct and operations, which has been permitted on the property by John Nickle, and which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

111. Third Party Defendant, J5 Ranch, LLC is a limited liability company under the laws of Oklahoma, and owns and operates upon the property located at County 28406 Highway 82, Park Hill, Oklahoma, more specifically identified as:

The SE/4 NE/4 and E/2 SW4 NE/4 and SE/4 SE/4 SE/4 and all that part of the E/2 SE4 lying East of a diagonal line running from the Southwest Corner of the SE/4 NE/4 to the Northwest Corner of the SE/4 SE/4 SE/4 all in Section 2; and The SE/4 SE/4; and W/2 SE/4; and E/2 SW/4; and E/2 SE/4 NE/4; and SW/4 SE/4 NE/4 of Section 8; and The NE/4 and the E/2 NW/4, and the NW/4 NW/4 of Section 9; and A tract of land in the W/2 of Section 10, described as: Beginning at the Northwest Corner of said Section 10, thence N 89°59'00"E along North line of said Section a distance of 50.73 feet; thence S 14°59'06" E a distance of 497.13 feet; S 41°58'43" E a distance of 345.40 feet; thence S 20°16'42" E a distance of 445.67 feet; thence S 56°43'17" E a distance of 453.07 feet; thence S 41°03'37" E a distance of 644.12 feet; thence S 55°52'06" E a distance of 677.82 feet; thence S 51°02'56" E a distance of 487.55 feet; thence S 43°11'31" W a distance of 645.81 feet; thence N 63°15'37"W a distance of 200.69 feet; thence N 50°01'16" W a distance of 245.30 feet; thence N



58°16'16" W a distance of 381.59 feet; thence N 71°10'02" W a distance of 384.78 feet; thence N 49°03'02" W a distance of 1069.59 feet to the West line of said Section 10; thence N 0°02'00" W along West line a distance of 1773.17 feet to the Point of Beginning. Said tract contains 51.7 acres more or less; all in Section 10; and The NE/4 NE/4 NE/4 of Section 11; and The S/2 and all that part of the NW/4 lying South of the center line of the existing Pumpkin Flat County Road running through the S/2 S/2 NW/4 and LESS AND EXCEPT a tract of land lying in and being part of the SW/4 SW/4 SW/4 of Section 14, as follows, to-wit: Beginning at the Southwest Corner of said SW/4 SW/4 SW/4; thence S 89°58'52" E, along the South boundary of said SW/4 SW/4 SW/4, 587.47 feet; thence N87°17'44" W, 272.63 feet; thence N 74°33'14" W, 258.96 feet; thence N53°58'14" W, 81.32 feet to a point on the West boundary of said SW/4 SW/4 SW/4; thence S 0°06'13" E, 129.47 feet to the Point of Beginning. Containing 0.47 acres; all in Section 14; and The S/2 S/2 and all that part of the E/2 NE/4 SE/4 lying East of the center line of the existing Pumpkin Flat County Road running through said E/2 NE/4 SE/4 and LESS AND EXCEPT a tract of land lying in and being a part of the SE/4 SE/4 SE/4 of Section 15, more particularly described as follows, to-wit: Beginning at the Southeast Corner of said SE/4 SE/4 SE/4; thence N 89°59'46" W, along the South boundary of SE/4 SE/4 SE/4, 479.19 feet; thence N 0°06' W, 120.38 feet to a point on the center line of an existing County Road; thence N 59°30'46" E, 249.43 feet; thence S 72°47'14" E, 187.27 feet; thence S 53°58'14" E, 105.53 feet to a point on the East boundary of said SE/4 SE/4 SE/4; thence S 0°06'13" E, 129.47 feet to the Point of Beginning. Containing 2.12 acres; all in Section 15; and All that part of the NE/4 lying North of center of existing County Road which runs primarily East and West through the NE/4; and all that part of the NE/4 lying East of the center of the existing County Road which runs primarily North and South in the NE/4; all in Section 21; and All of Section 22, LESS AND EXCEPT the S/2 NW/4 NE/4 and LESS AND EXCEPT that part of the S/2 SW/4 lying West of the center of the Ridge Road running South through said S/2 SW/4 in Section 22 and LESS AND EXCEPT a tract of land lying in and being a part of the SW/4 and a part of the NW/4 and a part of the NE/4 and a part of the W/2 SE/4 of Section 22, more particularly described as follows, to-wit: Beginning at the Southeast Corner of said SW/4; thence N 89°51'43" W, along the South boundary of said SW/4, 1047.19 feet; thence N 23°24'33" W, 129.07 feet; thence N 14°31'50" W, 575.43 feet; thence N 5°54'23" E, 293.92 feet; thence N 3°03'20" W, 318.04 feet; thence N 33°44'32" W, 322.97 feet; thence N 9°45'28" E, 274.63 feet; thence N 22°21'32" W, 398.23 feet; thence N 1°56'32" W, 268.49 feet; thence N 38°11'28" E, 299.57 feet; thence N 78°04'35" E, 380.86 feet; thence N 56°06'35" E, 439.59 feet; thence N 63°05'35" E, 404.26 feet; thence N 21°54'35" E, 290.36 feet; thence N 47°39'35" E, 281.67 feet; thence N 28°20'25" W, 428.14 feet to a point on the center line of an existing County Road; thence N 30°40'45" E, along

the center line of an existing County Road, 243.07 feet to a point on the East boundary of said NW/4; thence S 0°01'56" E, along the East boundary of said NW/4, 294.32 feet to the Northwest Corner of the SW/4 NE/4 of said Section 22; thence 89°59'56" E, 1316.06 feet to the Northeast Corner of the SW/4 NE/4 of said Section 22; thence S 0°04'04" E along the East boundary of the SW/4 NE/4 of said Section 22, 3953.1 feet to the Southeast Corner of said W/2 SE/4; thence S 89°50'50" W, 1318.51 feet to the Point of Beginning. Containing 203.03 acres. And LESS AND EXCEPT a tract of land lying in and being a part of the NE/4 NE/4 NE/4 of Section 22, more particularly described as follows to-wit: Beginning at the Northeast Corner of said NE/4 NE/4 NE/4; thence S 0°06'13" E, along the East boundary of said NE/4 NE/4 NE/4, 340.16 feet; thence N 77°11'26" W, 28.95 feet; thence N 4°50'26" W, 163.81 feet; thence N 34°52'26" W, 207.85 feet to a point on the North boundary of said NE/4 NE/4 NE/4; thence S 89°59'46" E, 160.28 feet to the Point of Beginning. Containing 0.53 acres. AND LESS AND EXCEPT a tract of land lying in and being a part of the E/2 SE/4 and a part of the E/2 NE/4 of Section 22, more particularly described as follows, to-wit: Beginning at the Southeast Corner of said E/2 SE/4; thence N 0°06'13" W, along the East boundary of said E/2 SE/4, 4301.11 feet; thence N 89°21'45" W, 292.16 feet; thence N 89°36'54" W, 616.52 feet; thence N 89°43'08" W, 407.20 feet to a point on the West boundary of said E/2 NE/4; thence S 0°04'04" E, along the West boundary of said E/2 NE/4, 4314.02 feet to the Southwest Corner of said E/2 SE/4; thence N 89°50'50" E, 1318.52 feet to the Point of Beginning. Containing 130.28 acres; and All of Section 23, LESS AND EXCEPT a tract of land lying in and being a part of the W/2 and a part of the SW/4 SW/4 SE/4 of Section 23, more particularly described as follows, to-wit: Beginning at the Southwest Corner of said SW/4 SW/4 SE/4; thence N 89°51'16" E, along the South boundary of said SW/4 SW/4 SE/4, 95.22 feet; thence N 39°36'45" W, 474.07 feet; thence N 24°00'34" W, 521.79 feet; thence N 6°05'57" W, 119.28 feet; thence N 28°03'04" W, 193.28 feet; thence N 40°31'07" W, 250.46 feet; thence N 18°39'17" W, 413.79 feet; thence N 40°12'33" W, 466.82 feet; thence N 42°53'30" W, 303.42 feet; thence N 24°47'50" W, 379.07 feet; thence N 36°38'56" W, 470.90 feet; thence N 13°45'57" W, 349.92 feet; thence N 1°20'55" E, 135.79 feet; thence N 8°14'12" E, 348.07 feet; thence N 6°11'07" E, 304.70 feet; thence N 11°20'19" E, 304.22 feet; thence N 36°00'37" W, 116.85 feet; thence N 47°24'32" W, 237.76 feet; thence N 56°04'39" W, 52.04 feet; to a point on the East boundary of the NW/4 NW/4 NW/4 of said Section 23; thence N 0°06'45" W, along the East boundary of the NW/4 NW/4 NW/4 of said Section 23, 546.76 feet to a point on the North boundary of the W/2 of Section 23, thence N 89°58'52" W, 659.55 feet to the Northwest Corner of said W/2 of Section 23; thence S 0°06'13" E, 5266.07 feet to the Southwest Corner of said W/2 of Section 23; thence S 89°58'28" E, along the South boundary of said W/2 of Section 23, 2641.50 feet to the Point of Beginning. Containing 168.79

acres; all in Section 23; and

The W/2 W/2 of Section 24; and

The NW/4 NW/4 of Section 25; and

A tract of land lying in the NE/4 of Section 26, more particularly described as: Beginning at the Northeast Corner of said Section, thence S 0°02'18" E along East line of said section a distance of 2427.16 feet; thence N 40°50'14" W a distance of 108.55 feet; thence N 19°03'55" W a distance of 77.38 feet; thence N 5°10'00" E a distance of 112.60 feet; thence N 32°30'06" W a distance of 201.98 feet; thence N 19°34'49" W a distance of 127.80 feet; thence N 32°22'01" W a distance of 303.19 feet; thence N 46°50'58" W a distance of 575.61 feet; thence N 40°44'58" W a distance of 281.20 feet; thence N 63°19'34" W a distance of 557.79 feet; thence N 65°03'30" W a distance of 313.40 feet; thence N 81°48'32" W a distance of 305.09 feet; thence N 61°33'01" W a distance of 149.08 feet; thence N 26°28'11" W a distance of 300.73 feet; thence N 39°36'45" W a distance of 303.14 feet to the North line of said Section 26, thence N 89°51'16" E along North line a distance of 2544.64 feet to the Point of Beginning. Said tract contains 58.46 acres; all in Section 26 and All In Township 18 North, Range 23 East In Cherokee County, Oklahoma.

Township 19 North, Range 23 East The NE/4 SE/4 SE/4 and the NE/4 SE/4 and the N/2 NW/4 SE/4 and the S/2 NE/4 and the SE/4 SE/4 NW/4 and all that part of the SE/4 NE/4 NE/4 lying South of the center of the creek running through said tract all in Section 34; and The W/2 SE/4 SW/4 and the W/2 W/2 E/2 SE/4 SW/4 and W/2 SW/4 and all that part of the SE/4 NE/4 SW/4 lying South and West of the creek and North and West of the center line of the Kirk Springs County Road and all that part of the W/2 NE/4 SW/4 and SW/4 NW/4 and SW/4 NW/4 NW/4 lying South and West of the center of the creek running through said tract all in Section 35; and All In Township 19 North, Range 23 East In Cherokee County, Oklahoma.

Township 18 North, Range 23 East. The E/2 NW/4 NW/4 and the W/2 NE/4 NW/4 and W/2 W/2 E/2 NE/4 NW/4 and the S/2 NW/4 and the W/2 SW/4 NE/4 and the SW/4 and the W/2 SE/4 and the SW/4 SE/4 SE/4 and all that part of the E/2 SE/4 lying West of a diagonal line running from the Southwest corner of the SE/4 NE/4 to the Northwest corner of the SE/4 SE/4 SE/4, all in Section 2; and

The S/2 of Section 3; and The S/2 of Section 9; and All of Section 10 LESS AND EXCEPT a tract of land in Section 10, described as: Beginning at the Northwest Corner of said Section 10, thence N 89°59'00" E along North line of said Section a distance of 50.73 feet; thence S 14°59'06" E a distance of 497.13 feet; thence S 41°58'43" E a distance of 345.40 feet; thence S 20°16'42" E a distance of 445.67 feet; thence S 56°43'17" E a distance of 453.07 feet; thence S 41°03'37" E a distance of 644.12 feet; thence S 55°52'06" E a distance of 677.82 feet; thence S 51°02'56" E a distance of 487.55 feet; thence S 43°11'31" W a distance of 645.81 feet; thence N 63°15'37" W a distance of 200.69 feet; thence N

50°01'16" W a distance of 245.30 feet; thence N 58°16'16" W a distance of 381.59 feet; thence N 71°10'02" a distance of 384.78 feet; thence N 49°03'02" W a distance of 1069.59 feet to the West line of said Section 10, thence N 0°02'00" W along West line a distance of 1773.17 feet to the Point of Beginning. Said tract contains 51.7 acres more or less; all in Section 10; and All of Section 11 LESS AND EXCEPT the NE/4 NE/4 NE/4 of Section 11 less the E 1/2 ; and The NE/4 and all that part of the NW/4 lying North of the center line of the existing Pumpkin Flat County Road running through the S/2 S/2 NW/4 all in Section 14; and The N/2 and N/2 SW/4 and NW/4 SE/4 and the W/2 NE/4 SE/4 and all that part of the E/2 NE/4 SE/4 lying West of the center line of the existing Pumpkin Flat County Road running through said E/2 NE/4 SE/4, all in Section 15; All In Township 18 North, Range 23 East In Cherokee County, Oklahoma. Township 18 North, Range 23 East All that part of the SW4 SW4 lying East of the center line of the Illinois River and all that part of the SW/4 SW/4 SE/4 lying South and West of the center of the creek running through said SW/4 SW/4 SE/4 and the E/2 SW/4 LESS AND EXCEPT all that part of the SE/4 SE/4 SW/4 lying South and East of the existing County road and North and East of the center of the creek running through said SE/4 SE/4 SW/4; all in Section 5; and The S2 NW4 SE4 and E2 SE4 of Section 7; and The SW4 NE4 and E2 NW4 and E2 SW4 NW4 and SW4 SW4 NW4 and all that part of the N2 NW4 NW4 lying East of the center of the Illinois River, EXCEPT a tract of land described as follows: that part of the NE4 NW4 NW4 beginning at the point of the intersection of the center line of the Illinois River and the South line of the NE4 NW4 NW4, running thence East to the Southeast Corner of the NE/4 NW4 NW4, thence North 45 degrees West to the center line of said river; thence in a Southerly direction along the center line of said river; to the point of beginning, all in Section 8; and The SW4 NW4 of Section 9; and he SE4 NW4 SE4 of Section 16; and The N2 NW4 and N2 N2 N2 S2 NW4 and NW4 NE4 and N2 NE4 NE4 and the SW4 NE4 NE4 of Section 18; and The SW4 and all that part of the W2 of the SE4 lying West and North of the Center of the main ridge running in a Northeasterly-Southwesterly direction thru the W2 of the SE4 of Section 28; and All that part of the SE4 lying South and East of the Ridge Road running in a Northeasterly-Southwesterly direction thru said SE4 of Section 29; and The E2 of Section 32; and The N2 NW4 and the SW4 NW4 and the NW4 SW4 of Section 33 LESS the S1/2 of the SE1/4 and the E1/2 of the SW1/4 of the SW1/4 and the SE1/4 of the SW1/4 of Section 33, Township 18 North, Range 23 East of the Indian Base and Meridian, Cherokee County, Oklahoma. All In Township 18 North, Range 23 East In Cherokee County, Oklahoma. Township 17 North, Range 23 East Lot 1 and the North 19.2 acres of Lot 2 of Section 5. All In Township 17 North, Range 23 East In Cherokee County, Oklahoma. Township 18 North, Range 22 East The N2 SE4 SE4 and SW4 SE4 SE4 and all that part of the SE4 SE4 SE4 lying North of the center line of the

Illinois River, all in Section 36, All In Township 18 North, Range 22 East In Cherokee County, Oklahoma.

Township 18 North, Range 23 East The SE4 and E2 SW4 and all that part of the S2 SE4 NE4 lying South of the center line of the County Road in Section 19 less the E1/2 of the E1/2; and The S2 and all that part of the N2 lying both South of the County Road running East and West through said Section and lying West of the County Road running North and South through said Section 21; and The N2 and the E2 SE4 and all that part of the W2 SE4 lying South and East of the center of the main ridge running in a Northeasterly-Southwesterly direction through said W2 SE4 all in Section 28; and The SE1/4 of the SE1/4 of Section 29; and All of Section 30; and The N2 and NW4 SW4 and N2 SW4 SW4 and all that part of the NE4 SW4 and NW4 SE4 SW4 lying North and West of the center line of the County Road and all that part of the NW4 SE4 and W2 NE4 SE4 lying North and East of the County Road and all that part of the S2 SW4 SW4 lying North of the center line of the Illinois River all in Section 31; and The E2 and the E2 SW4 and the SW4 SW4 and the SE4 NW4 all in Section 33; All In Township 18 North, Range 23 East In Cherokee County, Oklahoma. Township 18 North, Range 22 East. The S2 SE4 SW4 and all that part of the SE4 SW4 SW4 lying East of the center line of the Illinois River in Section 24; and The SE4 and N2 SW4 and S2 SE4 NW4 and NE4 NW4 and N2 NE4 and NE4 SW4 NE4 and S2 SE4 NE4 and NE4 SE4 NE4 all in Section 25; and The E2 NE4 and NE4 SE4 in Section 36; All In Township 18 North, Range 22 East In Cherokee County, Oklahoma

Township 17 North, Range 23 East. Lots 2 and 3 and the SW4 NE4 and the East 19.63 acres of Lot 4 all in Section 4; All In Township 17 North, Range 23 East In Cherokee County, Oklahoma.

The W2 SW4 of Section 8; and The N2 NE4 and all that part of the SE4 NE4 lying North of the existing County Road in Section 19; and The S2 SW4 NW4 and the SW4 SE4 NW4 and that part of the SW4 NE4 lying North of the center line of the now existing County Road in Section 20 less the SW1/4 of the NE1/4 and the E1/2 of the SE1/4 of the SE1/4 and the N1/2 of the NW1/4 of the SW1/4; and That part of the NW4 lying North of the center line of the now existing County Road that runs primarily East and West thru the N2 in Section 21; and That part of the S2 SW4 lying West of the center of the Ridge Road running South through said S2 SW4 in Section 22; and all of Section 27, LESS AND EXCEPT a tract of land lying in and being a part of the NW4 and a part of the NE4 NE4 SW4 and a part of the N2 NW4 SE4 and a part of the NE4 of Section 27, more particularly described as follows, to-wit: Beginning at the Northeast Corner of said NW4; thence N89°51'43"W along the North boundary of said NW4, 1047.19 feet; thence S23°24'33"E, 329.38 feet; thence S10°41'25"W, 201.37 feet; thence S20°21'21"W, 254.37 feet; thence S10°00'40"W, 216.86 feet; thence S50 °22'05"W, 293.53 feet; thence S34°21'31"W, 208.47 feet; thence S3°19'15"W, 145.46 feet;



thence S41°18'40"E, 94.58 feet; thence S68°10'05"E, 232.11 feet; thence S70°27'36"E, 293.88 feet; thence S57°38'15"E, 251.91 feet; thence S70°23'01"E, 248.11 feet; thence S40°50'58"E, 161.46 feet; thence S0°00'23"E, 400.42 feet; thence S29°03'27"E, 277.93 feet; thence S13°58'32"E, 411.42 feet; thence S10°58'36"W, 187.04 feet; thence S73°00'07"E, 103.95 feet; thence N81°29'12"E, 194.45 feet; thence N63°33'38"E, 186.77 feet; thence N75°51'24"E, 181.76 feet; thence N57°09'20"E, 228.79 feet; thence N43°54'32"E, 274.41 feet; thence N52°38'30"E, 166.78 feet; thence N63°20'18"E, 282.08 feet; thence N78°35'E, 70.30 feet; thence N0°02'58"W, 2,546.72 feet to the Northeast Corner of the W2 NE4 of said Section 27; thence S89°50'50"W, 1,318.51 feet to the Point of Beginning. Containing 143.87 acres.

AND LESS AND EXCEPT a tract of land lying in and being a part of the NE4 of Section 27, more particularly described as follows to-wit: Beginning at the Northeast Corner of said NE4; thence S89°50'50"W, 1318.52 feet to the Northwest Corner of the E2 NE4 of said Section 27; thence S0°02'58"E, 2,546.72 feet; thence N78°35'E, 226.11 feet; thence N68°06'16"E, 353.76 feet; thence N69°43'15"E, 360.20 feet; thence N80°09'35"E, 223.39 feet; thence S58°52'51"E, 201.24 feet; thence S75°21'13"E, 40.62 feet to a point on the East boundary of said NE4; thence N0°04'36"W, 2,324.82 feet to the Point of Beginning; Containing 71.41 acres, all in Section 27. All In Township 18 North, Range 23 East In Cherokee County, Oklahoma.

and;

All in Township 18, North, Range 23 East, in Cherokee County, Oklahoma

The East Half of Section 12 and The NW/4 and all that part of the S/2 lying West of the center line of the Pumpkin Hollow County Road and the NE/4 all in Section 13, LESS AND EXCEPT: A tract of land in the NE/4 of Section 13, more particularly described as: Beginning at the Southeast Corner of the NE/4 of said Section 13 thence S 89°53'00" W along South line of NE/4 a distance of 2157.04 feet; thence N 13°37'26" W a distance of 1009.48 feet; thence N 63°33'51" E a distance of 267.17 feet; thence N 53°19'06" E a distance of 836.95 feet; thence N30°18'15" E a distance of 763.10 feet; thence S89°58'00" E a distance of 200.00 feet to the Northeast Corner of said Section 13; thence S0°00'07" W along East line of NE/4 a distance of 2640.00 feet to the point of beginning. Said tract contains 80.8 acres more or less; all in Section 13.

J5 Ranch's operations include but are not limited to raising cattle and cultivating hay. J5 Ranch permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, J5 systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and

activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then J5 Ranch, LLC's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

112. Third Party Defendant, Tom Tate has legal title to property located at HC 66, Box 107, Proctor, Oklahoma, more specifically identified by the following legal description:

A tract of land lying in Section 19 and Section 30, Township 19 North, Range 24 East of the Indian Base and Meridian, situated in the County of Adair, State of Oklahoma, more particularly described as follows:

and;

**TRACT D**

The S/2 SE/4, and SW/4 NW/4 SE/4, and S/2 SE/4 SW/4, and all that part of SW/4 NE/4 and NW/4 NW/4 SE/4 and E/2 NE/4 SW/4 and N/2 SE/4 SW/4 and E/2 SW/4 SW/4 lying South and East of center line of the Illinois River in Section 9; The N/2 NE/4; SW/4 NE/4; and all that part of the NW/4 SE/4 NE/4 lying North and West of the center line of the existing County Road running through said NW/4 SE/4 NE/4, W/2 SE/4; and all that part of the N/2 SE/4 SE/4 lying South of the existing fence line along the cleared area in the SE/4 SE/4; and the S/2 SE/4 SE/4; and E/2 NW/4; and E/2 SW/4 NW/4; and SE/4 NW/4 NW/4; and N/2 NE/4 SW/4; and SE/4 NE/4 SW/4; and all that part of NE/4 NW/4 NW/4 and W/2 W/2 NW/4 and N/2 NW/4 SW/4 and SE/4 NW/4 SW/4 and SW/4 NE/4 SW/4 and N/2 SE/4 SW/4 lying East of center line of the Illinois River and all that part of S/2 S/2 SW/4 lying South and East of center line of the Illinois River in Section 16; The W/2 NW/4; NE/4 NW/4; N/2 NE/4 and all that part of the N/2 SE/4 NE/4 lying North of the existing fence line along the cleared area in the N/2 SE/4 NE/4 all in Section 21;

**TRACT E**

The N/2 NW/4; and SE/4 NW/4; and N/2 SW/4 NW/4; and SE/4 SW/4 NW/4 of Section 1; The E/2 SE/4; and NW/4 SE/4; and all that part of the SW/4 SE/4 lying North and East of the center line of the existing county road running through said SW/4 SE/4; and W/2 NE/4; and W/2 SE/4 NE/4; and N/2 N/2 SW/4; and SE/4 NW/4; and N/2 NW/4 all in Section 2; The NE/4 NE/4; and NE/4 NW/4 NE/4; and SW/4 SE/4; and S/2 NW/4

SE/4; and W/2 SE/4 SE/4; and S/2 SW/4; and S/2 NE/4 SW/4; and all that part of the S/2 NW/4 SW/4 lying South of the center line of the Illinois River all in Section 3; The E/2 SE/4 SE/4; all that part of the W/2 SE/4 SE/4 and S/2 NE/4 SE/4 lying East and South of the center line of the Illinois River all in Section 4; The NE/4 NW/4; and N/2 NW/4 NW/4; and NW/4 NE/4; and W/2 NE/4 NE/4; and NE/4 NE/4 NE/4 all in Section 10; All of the E/2 NE/4 and NE/4 NW/4 NE/4 lying North and East of the center line of the existing county road running through said tract all in Section 11; The SW/4 SW/4; and W/2 SE/4 SW/4; and SE/4 SE/4 SW/4; and SW/4 SW/4 SE/4 all in Section 15; The N/2 SE/4 SE/4 of Section 16; The N/2 SE/4 SE/4; and SE/4 SE/4 SE/4; and North 396 feet and East 497 feet of South 264 feet of SW/4 SE/4 SE/4; and the East 396 feet of the North 396 feet of the SE/4 SW/4 SE/4; and all that part of NE/4 SE/4 lying East of the existing county road all in Section 20; The W/2 SW/4; and SW/4 SW/4 SE/4 SW/4 and N/2 SE/4 NE/4 all in Section 21; The N/2 NW/4; and W/2 NW/4 NE/4; and N/2 S/2 NW/4; and NW/4 SW/4 NE/4 all in Section 22; ALL IN TOWNSHIP 19 NORTH, RANGE 24 EAST OF THE INDIAN MERIDIAN IN ADAIR COUNTY, OKLAHOMA.

and;

A tract of land lying in and being a part of the SE/4 of the SE/4 of the NE/4 of Section 19, Township 19 North, Range 24 East and the N/2 of Section 20, Township 19 North, Range 24 East, Adair County, Oklahoma, more particularly described as Beginning at the SW Corner of the NW/4 of said Section 20, thence S 89°23'26"W, a distance of 16.30 feet; thence N 00°02'53"W, a distance of 56.83 feet to the Southwest corner of Block 23, Bluff View Area, Flint Ridge No. 3; thence N 17°54'45"E, a distance of 219.44 feet to the point of curvature of a tangent curve, concave to the west, having a radius of 525.00 feet and a central angle of 04°59'07"; thence northerly along said curve, a distance of 45.68 feet; thence S 70°25'44"E, a distance of 202.42 feet; thence N 32°26'52"E, a distance of 754.85 feet; thence N 22°37'12"E, a distance of 585.00 feet; thence S 49°41'09"E, a distance of 216.39 feet; thence N 51°39'16"E, a distance of 427.14 feet; thence N 19°10'44"E, a distance of 121.76 feet; thence 75°57'50"E, a distance of 123.69 feet; thence N 32°12'39"E, 590.95 feet; thence N 47°24'44"E, a distance of 650.33 feet to the North Line NW/4; thence S 89°46'05" E on North line NW/4, a distance of 300.73 feet; thence S 32°02'03"W, a distance of 2064.38 feet; thence S 51°16'10"W, a distance of 296.50 feet; thence S 25°48'37"W, a distance of 1872.45 feet; thence S 57°08'44"W, a distance of 600.16 feet to the West Line SW/4 said Section 20; thence N 00°18'35"E on West Line SW/4, a distance of 1319.27 feet to the POINT OF BEGINNING; said described tract containing 61.2 Acres, more or less.

and;

All that part of the SE NW lying and being West of the Center line of the Main Channel of the Illinois River in Section 20, Township 19 North, Range 24 East.



Upon information and belief, Tom Tate permits Skelly Ranch, Inc. to operate on his property. Skelly Ranch's operations include but are not limited to raising cattle. Skelly Ranch permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Tom Tate has failed to maintain proper riparian buffers along the Illinois River which in turn has created serious and systematic bank erosion. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Tom Tate and Skelly Ranch, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

113. Third Party Defendant, Skelly Ranch, Inc. is a suspended corporation under the laws of Oklahoma operates upon the property of Third Party Defendant, Tom Tate's property, more specifically identified in Paragraph No.112. Skelly Ranch's operations include but are not limited to raising cattle. Skelly Ranch permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Skelly Ranch, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution

and/or indemnity.

114. Third Party Defendants, Gene and Lorene Colburn have legal title to property located at 5254 N. 595 Road, Proctor, Oklahoma, more specifically identified by the following legal description:

The NE1/4 of NW1/4 of SW1/4, and S1/2 of NW1/4 of SW1/4, and E1/2 of SW1/4, and SW1/4 of SE1/4, and SW1/4 of SE1/4 aof SE1/4 all in Section 24;

and the SE1/4 of NW1/4, and NE1/4, and the NE1/4 of SW1/4, and the N1/2 SE1/4 all in Section 25; and in Section 26 the NE1/4 of SW1/4 of NE1/4 and S1/2 SW1/4 of NE1/4 and the NW1/4 of SE1/4, and the E1/2 of SW1/4 of SE1/4, and S1/2 of SW1/4 of SE1/4 of SE1/4 and the NW1/4 of the NE1/4 of SE1/4 and all that part of the NW1/4 of SW1/4 of SE1/4 except the following tract more specifically described as follows: Beginning at a point 140 feet West of the SE/Corner of said ten acres to the North 225 feet, thence West 180 feet, thence South 225 feet, thence East 180 feet to the point of beginning, said tract being knows as the Thompson Cemetrury [sic]; and the SE1/4 SE1/4 SE1/4 of Section 26 less a tract more particularly described as: Beginning at the NW/Corener [sic] of said ten acres thence East 528 feet, thence South 330 feet, thence West 528 feet, thence North 330 feet to the point of beginning; and all that part of the W1/2 of the SE1/4 of SE1/4 of Section 26 lying West of the Easterly boundary of the existing county road running through said tract: and the SW1/4 NE1/4 SE1/4 LESS the following described tract: Beginning at a point 287 feet west of the NE/Corner of the SW1/4 NE1/4 SE1/4 said point being an iron pin on the East side of the present road, thence East 287 feet, thence South 540 feet, thence North 72 West along the existing fence line 285 feet to the East side of the existing County Road, thence Northerly along the East side of the existing County Road 447 feet more or less to the point of beginning. all in Township 19 North, Range 23 East.

and;

The E1/2 of the SE1/4 of the SE1/4 of the SE1/4 all in Section 23; and the SW1/4 of the SW1/4 of Section 24; and the E1/2 of the NW1/4 of the NW1/4 and the NE1/4 of the NW1/4 all in Section 25; and the E1/2 of the NE1/4 of the NE1/4 of the NE1/4 all in Section 26; all in Township 19 North, Range 23 East.

and;

The E2 of the SE4 of the SE4 of the SE4 of Section 23; and the NW4 of the NE4 of the SW4 and the NE4 of the NW4 of the SW4 and the S2 of the N2 of the SW4 and the SE4 of the SW4 and the SW4 of the SE4 and the SW4 of the SE4 of the SE4 of Section 24; and the NE4 of the NE4 of the NW4 and the SE4 of the NW4 of the NW4 of the NW4 and the SE4 of

the NW4 and the NE4 and the NE4 of the SW4 and the N2 of the SE4 of Section 25 and the SE4 of the NW4 of the NE4 and the S2 of the NE4 of the NE4 and the NE4 of the SE4 of the NW4 and the N2 of the S2 of the NE4 of Section 35, all in Township 19 North, Range 23 East.

and;

The SW4 of the SW4 of Section 24, and the NE4 of the NW4 of the NW4 and the W2 fo the NE4 of the NW4 and the SE4 of the NE4 of the NW4 of Section 25, all in Towhshp 19 North, Range 23 East.

and;

NE1/4 of NE1/4 of SW1/4 of Section 24, Township 19 North, Range 23 East.

and;

An undivided 1/3 interest in the W2 of the NE4 of the SE4 and the NW4 of the SE4 and the N2 of the S2 of the SE4 and the SE4 of the SW4 of the SE4 and the S2 of the SW4 of the SE4 of the SE4 of the SE4 of the Ser of the SE4 of the SE4 of Section 26, Townwhip 19 North, Range 23 East. And; an undivided 1/3 interest in the N2 of the NE4 and the NE4 o the NW4 of the NE4 of Section 35, Township 19 North, Range 23 East.

and;

The SW4 fo the SE4 and the E2 of the SE4 of the SW4 of the SW4 and the SW4 of the SE4 of the SW4 of Section 26, Township 19 North, Range 23 East of the IB&M, Cherokee County, OK, and The N2 of the NE4 of the NW4 and the SE4 of the NE4 of the NW4 and the NW4 fo the Nw4 and the SW4 of the NW4 of the NE4 of Section 35, Township 19 North, Range 23 East of the IB&M, Cherokee County, Okalhoma, and S2 of the SW4 of the SE4 of the SE4 OF THE SE4 Less the North 330 Feet of the West 528 feet of the SE4 of the SE4 of the SE4 of section 26, Township 19 North, Range 23 East of the IB&M and the E2 of the NW4 of the NE4 and the NE4 of the NE4 and the N2 of the S2 of the NE4 and the NE4 of the SE4 of the NW4 of section 35, Township 19 North, Range 23 East of the IB&M Cherokee County, Oklahoma.

Upon information and belief, Gene and Lorene Colburn permit cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Gene and Lorene Colburn systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which

is denied), then Gene and Lorene Colburn's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

115. Third Party Defendants, unknown trustees of the John E. and Virginia W. Adair Family Revocable Trust have legal title to part of the property located at Rt 2, Box 1160, Stilwell, Oklahoma, more specifically identified by the following legal description:

W1/2 NE SE of Section 33, Township 17 North, Range 26 East and the NW NW SW of Section 34, Township 17 North, Range 26 East and The E1/2 W1/2 NE and E1/2 NE and NE NE SE of Section 33, Township 17 North, Range 26 East.

Upon information and belief, the John E. and Virginia W. Adair Family Revocable Trust permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, the John W. and Virginia W. Adair Family Revocable Trust systematically applies fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the John w. and Virginia W. Adair Family Revocable Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

116. Third Party Defendants, John W. and Virginia W. Adair have legal title to part of the property located at Rt 2, Box 1160, Stilwell, Oklahoma, more specifically identified by the following legal description:

N/2 NE NE of Section 33, Township 17 North, Range 26 East and NW NW SW of Section 34; and the W $\frac{1}{2}$  NE SE and the E $\frac{1}{2}$  W $\frac{1}{2}$  NE and the E $\frac{1}{2}$  NE and the NE NE SE of Section 33, less the following described land, to-wit: Beginning 100 feet North of the SE corner of the NE $\frac{1}{4}$  of Section 33, thence West 417.5 feet, thence North 208.75 feet, thence East 417.5 feet, thence South 208.75 feet to point of beginning proper, being a part of SE SE NE of Section 33, all in Township 17 North, Range 26 East. and;

The E $\frac{1}{2}$  of W $\frac{1}{2}$  of NE $\frac{1}{4}$  and E $\frac{1}{2}$  of NE $\frac{1}{4}$  and NE $\frac{1}{4}$  of SE $\frac{1}{4}$  of Section 33, Township 17 North, Range 26 East, less the following described land, to-wit, Beginning 100 feet North of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 33, Township 17 North, Range 26 East, thence West 417.5 feet, thence North 208.75 feet, thence East 417.5 feet, thence South 208.75 feet to point of beginning proper, being a part of SE $\frac{1}{4}$  of SE $\frac{1}{4}$  of NE $\frac{1}{4}$  of Section 33, Township 17 North, Range 26 East. Less and Except W $\frac{1}{2}$  NE SE of Section 33, Township 17 North, Range 26 East and the NW NW SW of Section 34, Township 17 North, Range 26 East and The E $\frac{1}{2}$  W $\frac{1}{2}$  NE and E $\frac{1}{2}$  NE and NE NE SE of Section 33, Township 17 North, Range 26 East.

Upon information and belief, John W. and Virginia W. Adair permit cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, John W. and Virginia W. Adair systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then John W. and Virginia W. Adair's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

117. Third Party Defendants, Clare Louise Wells and Louise Squyres as tenants in common have legal title to a portion of the property located on Hwy 10, Tahlequah, Oklahoma, more specifically identified by the following legal description:

An undivided 1/2 interest in and to the following property: The NE4 NE4 SE4 and the E2 SE4 NE4 of Section 23, and the S2 NW4 NW4 and W2 E2 NW4 and the SW4 NW4 of Section 24, all in Township 17 North, Range 22 East; LESS 1/2 of the oil, gas and minerals in and under said real estate.

and;

The SE NE of Section 22 and the NW and the N2SW and the E2 SE SW and the W2 E2 and the NW SE NE and the NW SE SE and SW SE SE of Section 23, all in Township 17 North, Range 22 East, LESS all that part of the W2 of the SE4 of SE4, lying East of the Illinois River; and the NE NE SE and the E2 SE NE of Section 23 and the S2 NW NW and the W2 E2 NW and SW NW of Section 24, all in Township 17 North, Range 22 East, LESS all that part of the West 100.0 feet of the East 115.0 feet of the NW NE NW, lying South of Oklahoma State Highway #10 and North of the center line of the Illinois River, containing 0.4 acres, more or less. AND LESS all that part of the NW NE NW of Section 24, Township 17 North, Range 22 East, lying North of Oklahoma State Highway #10. AND the SW SE NE and S2 NE SE and NW NE SE of Section 23, Township 17 North, Range 22 East AND the S2 SE SW and S2 SE SW of Section 12 and the NE and E2 NW and E2 NW SW and E2 SW and W2 SE and N2 NE SE of Section 13, all in Township 17 North, Range 23 East.

and;

The SE4 of NE4 of Section 22, Township 17 North, Range 22 East in Cherokee County, Oklahoma, containing 40 acres, according to the United States Survey thereof:

and;

The NW4 and the W2 of the NE4 and the N2 of the NE4 of the NE4 and the SE4 of the NW4 and the N2 of the SW4 and the E2 of the SE4 of the SW4 and the W2 of the SE4 and the W2 of the NE4 of the SE4 lying West of the Illinois River center line and the NE4 of the NE4 of the SE4 all in Section 23, Township 17 North, Range 22 East according to the United States Survey thereof:

and;

That Portion of the S2 of the NW4 of the NW4 lying South of Highway 10 and bounded on the East by riparian line of the Illinois River and that part of the SW4 of the NW4 lying North and West of the riparian line of the Illinois River and that part if the NW4 of the SE4 of the NW4 lying West of the riparian line of the Illinois River and an approximate one acre in the Southwestern most corner of the NE4 of the NW4 bounded on the East by the riparian line of the Illinois River as it traverse the SW4 of the NE4 of the NW4 all in Section 24, Township 17 North, Range 22 East, containing 77.80 acres more or less.

Upon information and belief, Clare Louise Wells and Louise Squyers own and operate

MX Ranch on the property. MX Ranch permits cattle to graze and deposit manure on

some or all of the above referenced property which is within the IRW. Additionally, MX Ranch systematically applies fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Clare Louise Wells, Louise Squyers and MX Ranch's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

118. Third Party Defendant, Louise Squyres, individually has legal title to a portion of the property located on Hwy 10, Tahlequah, Oklahoma, more specifically identified by the following legal description:

All that part of the NW4 of the NE4 of the SW4 of Section 32, Township 17 North, Range 22 East of the IBM, which lies East of the St. Louis and San Francisco Railroad Right of Way, less a piece or parcel described as follows, to wit: Beginning at the SW/Corner of said ten acres; thence East 235 feet, thence North 190 feet, thence Northwesterly on a straight line, to a point 195 feet North of the POB, thence South to the POB.

and;

The West 15 feet of the NE4 of the NE4 of SW4 of Section 32, Townhsip 17 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma.

and;

All that part of the NW4 of the NE4, Lying North and East of a Branch which traverses said property from a Noartwesterly direction, and all that part of the SE4 of the NE4 of the NE4, Lying North and West of the Westerly boundary of Oklahoma State Highway No. 10, all in Seciton 23, Township 17 North, Range 22 East, Cherokee County, Oklahoma, Containing 4.25 acres, more or less.

and;

An undivided 1/2 interest in and to the following property: The NE4 NE4 SE4 and the E2 SE4 NE4 of Section 23, and the S2 NW4 NW4 and W2 E2 NW4 and the SW4 NW4 of Section 24, all in Township 17 North, Range 22 East; LESS 1/2 of the oil, gas and minerals in and under said



real estate.

and;

The SE NE of Section 22 and the NW and the N2SW and the E2 SE SW and the W2 E2 and the NW SE NE and the NW SE SE and SW SE SE of Section 23, all in Township 17 North, Range 22 East, LESS all that part of the W2 of the SE4 of SE4, lying East of the Illinois River; and the NE NE SE and the E2 SE NE of Section 23 and the S2 NW NW and the W2 E2 NW and SW NW of Section 24, all in Township 17 North, Range 22 East, LESS all that part of the West 100.0 feet of the East 115.0 feet of the NW NE NW, lying South of Oklahoma State Highway #10 and North of the center line of the Illinois River, containing 0.4 acres, more or less. AND LESS all that part of the NW NE NW of Section 24, Township 17 North, Range 22 East, lying North of Oklahoma State Highway #10. AND the SW SE NE and S2 NE SE and NW NE SE of Section 23, Township 17 North, Range 22 East AND the S2 SE SW and S2 SE SW of Section 12 and the NE and E2 NW and E2 NW SW and E2 SW and W2 SE and N2 NE SE of Section 13, all in Township 17 North, Range 23 East.

and;

The SE4 of NE4 of Section 22, Township 17 North, Range 22 East in Cherokee County, Oklahoma, containing 40 acres, according to the United States Survey thereof:

and;

The NW4 and the W2 of the NE4 and the N2 of the NE4 of the NE4 and the SE4 of the NW4 and the N2 of the SW4 and the E2 of the SE4 of the SW4 and the W2 of the SE4 and the W2 of the NE4 of the SE4 lying West of the Illinois River center line and the NE4 of the NE4 of the SE4 all in Section 23, Township 17 North, Range 22 East according to the United States Survey thereof:

and;

That Portion of the S2 of the NW4 of the NW4 lying South of Highway 10 and bounded on the East by riparian line of the Illinois River and that part of the SW4 of the NW4 lying North and West of the riparian line of the Illinois River and that part if the NW4 of the SE4 of the NW4 lying West of the riparian line of the Illinois River and an approximate one acre in the Southwestern most corner of the NE4 of the NW4 bounded on the East by the riparian line of the Illinois River as it traverse the SW4 of the NE4 of the NW4 all in Section 24, Township 17 North, Range 22 East, containing 77.80 acres more or less.

Upon information and belief, Louise Squyers permits cattle to graze and deposit manure on some or all of the above referenced property which is within the IRW. Additionally, Louise Squyers systematically applies fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and



continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Louise Squyers' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to her liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

119. Third Party Defendant, Suzanne M. Zeiders has legal title to property located at 550 Rd. Colcord, Oklahoma, more specifically identified by the following legal description:

A tract of land in Section 24 and 25, Township 20 North, Range 24 East of the Indian Base and Meridian in Delaware County, Oklahoma, more particularly described as follows: In Section 24: The E/2 of the SW/4 of the SW/4 lying East of the meander centerline of Flint Creek, less the West 100 feet of the North 300 feet of the E/2 of the SW/4 of the SW/4; and The SE/4 of the SW/4, LESS a strip of land 50 feet in width, the centerline of which is the centerline of the existing county road, and reserving for an easement a strip of land 30 feet in width, the centerline of which begins 15 feet east of the Northwest corner of the E/2 of the SE/4 of the SW/4; thence due South 300 feet; thence due West to its intersection with the existing county road; and The SW/4 of the SE/4; LESS the S/2 of the SE/4 of the SW/4 of the SW/4; and the S/2 of the N/2 of the SE/4 of the SW/4 of the SW/4 lying East of the meandering center line of Flint Creek, and LESS the S/2 of the SW/4 of the SE/4 of the SW/4; and the S/2 of the N/2 of the SW/4 of the SE/4 of the SW/4 lying West of the center line of the existing county road in said tract, all in Section 24, Township 20 North, Range 24 East, Delaware County, Oklahoma containing 96.5 acres, more or less, in Section 24.

In Section 25 All that part of the NE/4 of the NW/4 lying 25 feet North and East and parallel to the existing county road; and All that part of the NW/4 of the NE/4 lying 25 feet North and West and parallel to the existing county road leading to the North boundary of Section 25; containing 20.0 acres more or less, in Section 25; A tract of land in the North Half of Section 25, Township 20 North, Range 24 East, Delaware County, more particularly described as follows: Commencing at the Northeast corner of said Section 25, thence South 0°04'24" along the East section line a distance of 1318.09 feet to the point of beginning, thence South 0°04'224" East along the East section line a distance of 659.04 feet,

thence North 89°54'24" West along the South line of N/2 S/2 N/2 of Section 25, a distance of 4,247.93 feet to North Right Of Way Line of Oklahoma State Highway 33, thence North 12°35'47" East a distance of 1320.42 feet, thence South 89°52'15" East a distance of 260.84 feet to the West Right of Way Line of the county road, thence Southeasterly along the West Right Of Way Line of county road a distance of 3,550.48 feet, thence South 1°26'01" West a distance of 872.85 feet, thence North 89°58'00" East a distance of 1,327.08 feet to the point of beginning. The described tract of land contains 111.91 acres mor or less.

Upon information and belief, Suzanne M. Zieders systematically applies fertilizers and other chemicals on the property for hay production within the IRW within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Suzanne M. Zieders' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to her liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

120. Third Party Defendants, Bobby and Marian Williams have legal title to property located at RR 1, Box 527, Westville, Oklahoma, more specifically identified by the following legal description:

The N1/2 of NW1/4 and W1/2 of NW1/4 of NE1/4 and NW1/4 of SE1/4 of NW1/4 of Section 10, Township 18 North, Range 25 East.

LESS AND EXCEPT A tract of land located in the NW1/4 of the NW1/4 of Section 10, Township 18 North, Range 25 East, more particularly described as: Beginning at a point on the West line of said NW NW a distance of 377.58 feet South of the NW/corner thereof; thence N 89°51'03" E a distance of 316.51 feet; thence S 0°02'00" E a distance of 277.68 feet; thence N 89°16'15" W a distance of 316.54 feet to the West line NW NW; thence N 0°02'00" W along said West line a distance of 272.83 feet to the point of beginning.

and;

The S1/2 of the SW1/4 and the S1/2 of the NE1/4 of the SW1/4 of Sec. 2, Twp. 18 N., Rge 25 E., EXCEPT: A tract of land described as beginning at the NW Corner of said S1/2 of SW1/4 of said Sec., Twp. and Rge.,

thence South 246 feet, thence East 432 feet; thence North 246 feet; thence West 432 feet to the place of beginning, the lands being conveyed containing 95 acres, more or less.

and;

Beginning at the NW corner of S2 SW, thence South 246 feet; thence East 432 feet; thence North 246 feet; thence West 432 feet to point of beginning in Section 2, Township 18 North, Range 25 East, Adair County, Oklahoma.

Upon information and belief, Bobby and Marian Williams operate Williams Dairy, and systematically apply fertilizers and other chemicals on the property for hay production within the IRW within the IRW. Additionally, Bobby and Marian Williams allow the dairy cows to graze and deposit manure on the property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Bobby and Marian Williams' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

121. Third Party Defendant, Billy Simpson has legal title to property located at 7418 Highway 82 A, Tahlequah, Oklahoma, more specifically identified by the following legal description:

The W2 of the NE4 and the NW4 of the SE4 of the NE4 and the SE4 of the NW4 and the E2 of the SW4 and the N2 of the NW4 of the SE4 of Section 3, Township 18 North, Range 22 East, Cherokee County, Oklahoma

and;

Lot 1, Section 3, Township 18 North, Range 22 East, According to the U.S. Survey Thereof.

and;

E2 of the SE4 of the NE4 and the SW4 of the SE4 of the NE4 of Section 3, Township 18 North, Range 22 East.

and;

E2 of the NW4 of the NE4 and the SW4 of the NW4 of the NE4 of Section 10, Township 18 North, Range 22 East, of the Indian Base and Meridian, Cherokee County, Oklahoma.

LESS AND EXCEPT: A tract of land lying in and being a part of the SE4 of the SW4 of Section 3, Township 18 North, Range 22 East of the Indian Base and Meridian, Cherokee County Oklahoma; more particularly described as: Beginning at the SW Corner of the SE4 of the SW4 of said Section 3; Thence N0°22'32"W on West line SE4 SW4 a distance of 326.49 feet; Thence S84°29'58" E a distance of 222.09 feet; Thence N5°59'33"E a distance of 29.48 feet; Thence S82°10'55"E a distance of 211.01 feet; Thence S02°49'32"W a distance of 308.10 feet to the South line SW4; Thence N89°44'06"W along said South line SW4 a distance of 415.84 feet to the Point of Beginning.

Billy Simpson operates Simpson Dairy on the property and permits the dairy cows from the dairy to graze on some or all of his property within the IRW. Simpson Dairy is listed as a Confined Animal Feeding Operation by the Environmental Protection Agency, license # OKU000213. Upon information and belief, Billy Simpson has applied some or all of the manure from the cows located at Simpson Dairy on his property, and/or he has allowed the dairy cows to graze and deposit manure on the property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Billy Simpson and Simpson Dairy's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

122. Third Party Defendants, Ray Dean and Donna Doyle have legal title to property located at Rt. 3, Box 1520, Stilwell, Oklahoma, more specifically identified by the following legal description:

All that portion of the S½ NE SE and the SE NW SE lying and being East of the County Road in Section 31, Township 17 North, Range 25 East,

Adair County, Oklahoma; and All that part of the SW SE NE lying and being South of County Road and all that part of NE NW SE lying and being East of the County Road, and the NW NE SE, all in Section 31, Township 17 North, Range 25 East, less and except the following tracts, to-wit: Two acres in the NE NW SE lying East of the County Road described as beginning at the point of intersection of the South line of NE NW SE and the East right of way line of the County Road for a point of beginning proper; thence East 208.75 feet; thence North 417.5 feet; thence West 208.75 feet; thence South 417.5 feet to the point of beginning proper; and Less and Except a tract of land in the SW SE NE and NW NE SE commencing at a point in the center of the County Road and 360 feet West of the East line of said SW SE NE for point of beginning proper; thence East along County Road 200 feet; thence South 300 feet; thence in a Northwesterly direction to a point which is 250 feet South of the point of beginning; thence North 250 feet to the point of beginning; ALL IN Section 31, Township 17 North, Range 25 East, Adair County, Oklahoma and;

A one-acre tract of land beginning at the SW corner of the NW SW NW of Section 10, Township 16 North, Range 25 East, thence North 208.75 feet; thence East 208.75 feet; thence South 208.75 feet; thence West 208.75 feet to the point of beginning.

and;

W $\frac{1}{2}$  SW SW SW of Section 32, Township 17 North, Range 25 East; and W $\frac{1}{2}$  of Section 31, and SW NE and W $\frac{1}{2}$  NW SE and S $\frac{1}{2}$  SE and all that part of the E $\frac{1}{2}$  NW SE lying and being West of the County Road in Section 31, Township 17 North, Range 25 East; and West 9.62 acres of Lot 3 and Lot 4, less that portion lying West of the County Road; and Lot 5, less that portion lying West of the County Road; and the W $\frac{1}{2}$  of Lot 6, and the W $\frac{1}{2}$  of Lot 11, and Lot 12, less that portion lying West of the County Road; and NW NE SW of Section 5, Township 16 North, Range 25 East, less the following described tract of land, to-wit: A portion of the S $\frac{1}{2}$  of Lot 5 and of that portion of the N $\frac{1}{2}$  of Lot 12 in Section 5, Township 16 North, Range 25 East described as follows, to-wit: Beginning at the SE corner of said N $\frac{1}{2}$  of Lot 12; thence S. 89°57'W., 415.22 feet to the true point of beginning; thence N. 0°03' W., 759.00 feet; thence S. 89°57'W., 461.37 feet to the East side of the County Road, thence Southwesterly along the East side of said County Road to the intersection thereof with the South line of said N $\frac{1}{2}$  of Lot 12; thence N. 89°57' W., 831.00 feet to the true point of beginning. All in Adair County, Oklahoma.

and;

All their undivided one-half ( $\frac{1}{2}$ ) interest in and to the South 450 feet of N $\frac{1}{2}$  SW NW and the West 451.25 feet of the South 450 feet of NW SE NW; and the South 346.875 feet of the East 208.75 feet of NW SE NW; and the West 417.5 feet of the East 626.25 feet of the North 210 feet of NW SE NW of Section 10, Township 16 North, Range 25 East; and the

West 33.75 feet of the North 210 feet of NW SE NW; and the East 450 feet of the North 210 feet of NE SW NW of Section 10, Township 16 North, Range 25 East; and S½ NW NE NW and SW NE NW and all that part of the S½ NE NE NW and SE NE NW lying and being West of the center-line of U.S. Highway 59 in Section 10, Township 16 North, Range 25 East

and;

All that part of the SE SW lying and being south of the County Road and West of U.S. Highway 59, less that portion lying and being West of U.S. Highway 59 of the following described tract: Beginning at the SW corner of SE SE SW, thence East 210 feet; thence North 420 feet; thence West 315 feet; thence South 420 feet; thence East 105 feet to the point of beginning, all in Section 3, Township 16 North, Range 25 East; and the South 450 feet of N½ SW NW and the West 451.25 feet of the South 450 feet of NW SE NW; and the South 346.875 feet of the East 208.75 feet of NW SE NW; and the West 417.5 feet of the East 626.25 feet of the North 210 feet of NW SE NW of Section 10, Township 16 North, Range 25 East; and the West 33.75 feet of the North 210 feet of NW SE NW; and the East 450 feet of the North 210 feet of NE SW NW of Section 10, Township 16 North, Range 25 East; and S½ NW NE NW and SW NE NW and all that part of the S½ NE NE NW and SE NE NW lying and being West of the center-line of U.S. Highway 59 in Section 10, Township 16 North, Range 25 East.

and;

The East 393.5 feet of the NW SE NE and all that part of the S 1/2 SE NE lying and being East of the center line of County Road, all in Section 36, Township 17 North, Range 24 East.

Ray Dean and Donna Doyle operate Simpson Dairy on their property, and permit the dairy cows from the Simpson Dairy to graze on some or all of their property within the IRW. Simpson Dairy is listed as a Confined Animal Feeding Operation by the Oklahoma Department of Agriculture, license #320, and the Environmental Protection Agency, license # OKU010211. Upon information and belief, Ray Dean and Donna Doyle have applied some or all of the manure from the cows located at Simpson Dairy on their property, and/or they have allowed the dairy cows to graze and deposit manure on the property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct

of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Ray Dean and Donna Doyle and Simpson Dairy's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

123. Third Party Defendant, Clifton Williams has legal title to property located at RR2, Box 557, Westville, Oklahoma, more specifically identified by the following legal description:

W1/2 NE SE and West 165 feet of the North 470 feet and the South 190 feet of the NE NE SE and SE NE SE and W1/2 SE, less 6 acres for cemetery, and the SE SE SW, all in Section 8, Township 17 North, Range 24 East.

and;

NE SE SW less .01 acres for O & C C Railway right-of-way and SE NE SW of Section 8, Township 17 North, Range 24 East, 19 acres, more or less.

Clifton Williams operates Williams Dairy on the property and permits the dairy cows to graze on some or all of his property within the IRW. Upon information and belief, Clifton Williams has applied some or all of the manure from the cows located at Williams Dairy on his property, and/or he has allowed the dairy cows to graze and deposit manure on his property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Clifton Williams and Williams Dairy's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.



124. Third Party Defendants, Jerry D. and Christina Williams have legal title to property located at Route 1, Box 476, Watts, Oklahoma, more specifically identified by the following legal description:

The W 1/2 of W 1/2 of the NE 1/4 of NW 1/4 and E 1/2 of NW 1/4 of NW 1/4 and the W 1/2 of NW 1/4 of NW 1/4 of Section 11, Township 18 North, Range 25 East, LESS AND EXCEPT: Beginning at a point on the West Boundary of the NW 1/4 of Section 11, Township 18 North, Range 25 East, Adair County, Oklahoma, A distance of 324.98 feet South of the Northwest corner of said Section 11; thence N 89° 25' 01" E, 474.96 feet; thence S 2° 19' 02" W., 468.87 feet, thence S 86° 25' 01" W, 455.90 feet; thence N 0° 01' W., 468.87 feet to the point of beginning.

and;

The W1/2 of SE1/4 of NW1/4 and SW1/4 of NW1/4 and E1/2 of NW1/4 of SW1/4 and W1/2 of NE1/4 of SW1/4 and E1/2 of NW1/4 of NW1/4 of SW of Section 11, Township 18 North, Range 25 East.

Upon information and belief, Jerry D. and Christina Williams operate the Simpson Dairy on their property, and permit the dairy cows from the Simpson Dairy to graze on some or all of their property within the IRW. Jerry D. and Christina Williams also systematically apply fertilizers and other chemicals on the property for hay production within the IRW within the IRW. Jerry D. and Christina Williams have also applied some or all of the manure from the cows within dairy to their property, and/or they have allowed the dairy cows to graze and deposit manure on their property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Jerry D. and Christina Williams' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

125. Third Party Defendants, Darrell and Dianna Guffey have legal title to property located at 21327 S. 550 Rd., Welling, Oklahoma, more specifically identified by the following legal description:

The W2 of the NE4 of the NE4 and the N2 of the SW4 of the NE4 and the SE4 of the SW4 of the NE4 and the SE4 of the NE4 and part of the NE4 of the SE4 described as follows: Beginning at the Northwest corner thereof; thence East 1320 feet; thence South 990 feet; thence Northwesterly on a straight line to the point of beginning, all being in Section 13, Township 16 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma.

Upon information and belief, Darrell and Dianna Guffey operate Seldom Rest Dairy on their property, and permit the dairy cows from the Seldom Rest Dairy to graze on some or all of their property within the IRW. Darrell and Dianna Guffey have also applied some or all of the manure from the dairy cows on their property, and/or have allowed the dairy cows to deposit manure on some or all of their property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Darrell and Dianna Guffey and Seldom Rest Dairy's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

126. Third Party Defendants, Larry R. and Carolyn R. Lockwood, have legal title to the property located at County Road 12865, Proctor, Oklahoma, more specifically identified as:

Lot One (1) and the South Half of the Northeast Quarter of Section Four (4) and the Northwest 9.89 acres of Lot Four (4) of Section 3, Township

18 North, Range 23 East of the Indian Base and Meridian; and the Northeast Quarter of the Southeast Quarter of the Northwest Quarter of Section 4, Township 18 North, Range 23 East of the Indian Base and Meridian.

and;

The W/2 SE/4 SE/4; and SW/4 SE/4; and the SE/4 SW/4 LESS a tract beginning at a point 246 feet South of the Northeast Corner of the NW/4 SE/4 SW/4, thence West 225 feet, thence South 126 feet, thence East 225 feet to the East line of said 10 acre tract, thence South 50 feet, thence East 86.5 feet, thence North 176 feet, thence West 86.5 feet to the Point of Beginning all in Section 34, Township 19 North, Range 23 East of the Indian Meridian, in Cherokee County, Oklahoma.

Reserving to the Grantor and its assigns a permanent roadway easement of ingress and egress across the SE/4 SW/4 of the above described property.

and;

The SE/4 SE/4 SE/4 of Section 34, Township 19 North, Range 23 East; and

The W/2 NW/4 NW/4 of Section 2, Township 18 North, Range 23 East; and

The NE/4; and E/2 NW/4; and SW/4 NW/4; and S/2 NW/4 NW/4; and NE/4 NW/4 NW/4 all in Section 3, Township 18 North, Range 23 East of the Indian Meridian. All in Cherokee County, Oklahoma. Reserving to the Grantor and its assigns a permanent roadway easement of ingress and egress across the NE/4 and NE/4 NE/4 NW/4 of Section 3 of the above described property.

and;

The SW/4 SE/4 SE/4 and SE/4 SW/4 SE/4 and all that part of the SW/4 SW/4 SE/4 and the SE/4 SE/4 SW/4 lying South and East of the existing County Road and North and East of the Center of the Creek Bed running thru said property all in Section 5, Township 18 North, Range 23 East in Cherokee County, Oklahoma.

Upon information and belief, Larry R. and Carolyn R. Lockwood systematically apply fertilizers and other chemicals on the property for hay production within the IRW within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Larry R. and Carolyn R. Lockwood's conduct and operations, which results in the release of some or all of the same

constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

127. Third Party Defendants, Charles W. and Kimberlee Wilson have legal title to the property located at 4630 Rd., Tahlequah, Oklahoma, more specifically identified as:

Undivided 1/2 interest in the SW4 of the SW4 of the NW4; and the N2 of the SW4 of the NW4; and the SE4 of the SW4 of the NW4; and the NW4 of the SW4; and the W2 of the NE4 of the SW4; and the W2 of the E2 of the NE4 of the SW4; and the SW4 of the SW4 of the SW4; and that part of the SE4 of the NW4 more particularly described as Beginning 825.00 feet West of the NE/Corner of said SE4 of the NW4; thence South 71°45' East 188.00 feet; thence South 89° East 59.00 feet, more or less; thence North 79°05' East 37.00 feet, more or less; thence South 28°32' East 74.00 feet, more or less; thence South 558.00 feet, more or less, thence West 859.00 feet, more or less, to a point on the West line of said SE4 of the NW4, said point being 695.00 feet, more or less, South of the NW/Corner thereof; thence South 130.00 feet, more or less; thence Southeasterly on a straight line to a point on the South line of said SE4 of the NW4, said point being 330.00 feet, more or less, West of the SE/Corner thereof; thence 990.00 feet West to the SW/Corner of said SE4 of the NW4; thence North 1320.00 feet, more or less, to the NW/Corner of said SE4 of the NW4; and thence East 495.00 feet, more or less, to the point of beginning, all being situate in Section 11, Township 16 North, Range 22 EIM, according to the official U.S. Government Survey thereof; and;

A tract of land lying in and being a part of the SE/4 of the NW/4 of Section 11, Township 16 North, Range 22 East of the Indian Base Meridian, Cherokee County, Oklahoma; more particularly described as: Beginning at a point 825 feet West of the NE/Corner of the SE/4 of the NW/4 of said Section 11; said point being a U.S.C.E. Brass cap on the U.S. Army Corps of Engineers Boundary Line; thence S88°35'30"E along USCE Boundary Line a distance of 59.00 feet; thence N79°29'30"E along U.S.C.E. Boundary Line distance of 37.00 feet; thence S72°05'30"E along U.S.C.E. Boundary Line a distance of 60.00 feet; thence S28°07'30"E along U.S.C.E. Boundary Line a distance of 74.00 feet; thence S0°24'30"E along U.S.C.E. Boundary Line a distance of 89.30 feet; thence S80°50'09"W a distance of 182.54 feet; thence N01°53'22"W a distance of 196.89 feet to the Point of Beginning. Tract contains 0.729 acres, more or less.

and;

The SW4 of the SW4 of the NW4 and the N2 of the SW4 of the NW4 and

the SE4 of the SW4 of the NW4 and the NW4 of the SW4, and the W2 of the NE4 of the SW4 and the W2 of the E2 of the NE4 of the SW4 and the SW4 of the SW4 of the SW4 and that part of the SE4 of the NW4 more particularly described as beginning 825.0 feet west of the NE/Corner of said SE4 of the NW4; thence S71°45'E 188.00 feet; thence S89°E 59.00 feet, more or less; thence N79°05'E 37.00 feet, more or less; thence S72°30'E 60.00 feet, more or less; thence S28°32'E 74.00 feet, more or less; thence South 558.00 feet, more or less; thence West 859.00 feet, more or less, to a point on the West line of said SE4 of the NW4, said point being 695.00 feet, more or less, South of the NW/Corner thereof; thence South 130.00 feet, more or less; thence Southeasterly on a straight line to a point on the South line of said SE4 of the NW4, said point being 330.00 feet, more or less, west of the SE/Corner thereof; thence 990.00 feet West to the SW/Corner of said SE4 of the NW4; thence North 1320.00 feet, more or less, to the Northwest corner of said SE4 of the NW4; thence East 495.00 feet, more or less, to the point of beginning, all being situate in Section 11, Township 16 North, Range 22 East of the Indian Meridian, according to the official U.S. Government survey thereof, Cherokee County, Oklahoma. Less and Except: A tract of land lying in and being a part of the SE4 of the NW4 of Section 11, Township 16 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma; more particularly described as: commencing at a point 825.00 feet West of the NE/Corner of the SE4 of the NW4 of Section 11, thence S71°45'E a distance of 188.00 feet to the true point of beginning; said point being a U.S. Army Corps of Engineers Brass Cap on the US Army Corps of Engineers Boundary Line; thence S88°35'30"E along U.S.C.E Boundary Line a distance of 59.00 feet; thence N79°29'30"E along the U.S.C.E Boundary Line a distance of 37.00 feet; thence S72°05'30"E along the U.S.C.E. Boundary line a distance of 60.00 feet; thence S28°07'30"E along U.S.C.E. Boundary Line a distance of 74.00 feet; thence S0°24'30"E along U.S.C.E. Boundary Line a distance of 74.00 feet; thence S0°24'30"E along U.S.C.E. Boundary Line a distance of 89.30 feet; thence S80°50'09"W a distance of 182.54 feet; thence N01°53'22"W a distance of 196.86 feet to the true point of beginning.

Upon information and belief, Charles W. and Kimberlee Wilson systematically apply fertilizers and other chemicals on the property for hay production within the IRW within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Charles W. and Kimberlee Wilson's

conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

128. Third Party Defendant, Willie and Elsie Tarrance, have legal title to the property located at 18662 Welling Rd, Welling, Oklahoma, more specifically identified as:

The S½ of SE¼ of Section 20, Township 16 North, Range 23 East of the Indian Base and Meridian, containing 80 acres, more or less, according to the U.S. Survey thereof;

and;

All that part of the N2 of NW4 of SW4 and of the SW4 of NE4 of SW4 lying South of the County Road in Section 20, Township 16 North, Range 23 East of the I. B. & M.,

and;

The Northeast Quarter of the Southeast Quarter of the Southwest Quarter (NE/4 SE/4 SW/4) of Section Twenty (20), Township Sixteen (16) North, Range Twentythree (23) East of the Indian Meridian, containing 10 acres more or less, RESERVING however, to grantor, his heirs, successors, administrators and assigns, forever, an undivided one-half (1/2) of all oil, gas and other mineral rights in and to said land, together with right of ingress and egress therein and thereto.

and;

The NW4 of Section 29, and the SW4 of SW4 and the S2 of NW4 of SW4 and the W2 of SE4 of SW4 and the SE4 of SE4 of SW4 of Section 20, all in Township 16 North, Range 23 East of the I. B. & M., containing 250 acres, more or less, according to the U.S. Survey thereof.

Upon information and belief, Willie and Elsie Tarrance systematically apply fertilizers and other chemicals on the property for hay production within the IRW within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Willie and Elsie Tarrance's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise

to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

129. Third Party Defendant, Illinois River Valley Nursery, Inc. is a suspended corporation under the laws of Oklahoma, and has its principal place of business in Oklahoma. Illinois River Valley Nursery, Inc. has legal title to the property located at 7367 Wichita, Proctor, Oklahoma, more specifically identified as:

E/2 SW/4 less one square acre in Northeast Corner of NE/4 SE/4 SW/4; and SW/4 SW/4; and all that part of the NW/4 SW/4 and SE/4 SW/4 NW/4 lying South and East of center line of the Illinois River; and W/2 SW/4 SE/4, in Section 20, Township 19 North, Range 24 East, Adair County, Oklahoma.

Upon information and belief, Illinois River Valley Nursery, Inc. systematically applies fertilizers and other chemicals on the property for hay production within the IRW within the IRW. Moreover, Illinois River Valley Nursery, Inc. has engaged in the past in the growth and harvesting of plants and trees upon its property utilizing fertilizers, pesticides, and herbicides. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Illinois River Valley Nursery, Inc.'s conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

130. Third Party Defendants, Kermit and Katherine Brown, have legal title to the property located at River Road, Watts, Oklahoma, more specifically identified as:

SE/4 NE/4 of Section 8, Township 19 North, Range 25 East; and NE/4 SE/4 NE/4 of Section 7, and the SW/4 NW/4, less all that part of the NE/4



SW/4 NW/4 North and East of the center line of the Illinois River, and the W/2 SE/4 NW/4 and the SE/4 SE/4 NW/4, and the S/2 NW/4 NE/4 and the SW/4 NE/4 and the W/2 SW/4 and the N/2 NE/4 SW/4 and the W/2 SE/4 SW/4 and that portion of the N/2 SE/4 lying North of the Center Channel of the Illinois River in Section 8, all in Township 19 North, Range 25 East.

Upon information and belief, Kermit and Katherine Brown systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Kermit and Katherine Brown's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

131. Third Party Defendant, Dean Wilmoth, has legal title to the property located at River Road, Watts, Oklahoma, more specifically identified as:

The SE and S1/2 SW SW and W1/2 SE SW of Section 12, Township 19 North, Range 25 East, NW, less that part of SW SW NW lying and being South and West of Illinois River, and W1/2 SW NE and NW NE and all that part of S1/2 NE NE lying and being North and West of Illinois River, and all that part of SE NE lying and being North and West of Illinois River, and all that part of E1/2 SW NE lying and being North and West of Illinois River, and all that part of NW NW SE lying and being North of Illinois River, and all that part of N1/2 SW lying and being North of the Illinois River, all in Section 13, Township 19 North, Range 25 East, W1/2 SW and NW NE SW of Section 7, Township 19 North, Range 26 East. All that part of S1/2 NW NW of Section 18, Township 19 North, Range 26 East lying North and West of Illinois River, and all that part of the E1/2 NW SE and all that part of SW NW SE of Section 13, Township 19 North, Range 25 East lying and being North and West of the Illinois River.

Upon information and belief, Dean Wilmoth systematically applies fertilizers and other

chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Dean Wilmoth's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

132. Third Party Defendants, Katherine L. and Kevin W. Tye have legal title to the property located at RR2 Box, 1300 County Rd. 76, Watts, Oklahoma, more specifically identified as:

The East - Half of the Southeast Quarter of the Southwest Quarter (E/2 SE SW) of Section 12, Township 19 North, Range 25 East [Surface Rights only]  
and; Section 11 and; The S1/2 SE NE of Section 11, Township 19 North, Range 25 East.

Upon information and belief, Katherine L. and Kevin W. Tye systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Katherine and Kevin W. Tye's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

133. Third Party Defendants, John Doe No.16 through No. 20, are the unknown partners of the Hayes Family Limited Partnership. The Hayes Family Limited Partnership has legal title to the property located at 550 Rd., Colcord Oklahoma, more specifically identified as:

Tract 1: Beginning at the NW Corner of the NE/4 of the SE/4 of the SW/4 of Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma; N89°29'45"E, a distance of 661.01 feet to the NE Corner of the NE/4 SE/4 SW/4; thence S 00°09'52"E on East line N#/4 SE/4 SW/4, a distance of 660.42 feet to the SE Corner of the NE/4 SE/4 SW/4; thence S89°28'32"W on the South line of the NE/4 SE/4 SW/4, a distance of 150.00 feet more or less to the centerline of the Illinois River; thence Northwesterly on centerline of Illinois River to a point 475 feet South and 36 feet East of the NW Corner of said NE/4 SE/4 SW/4; thence N00°09'26"W, a distance of 210.00 feet; thence S85°20'00"W, a distance of 36.00 feet; thence N00°09'26"W, a distance of 272.65 feet to the Point of Beginning; and;

Tract 2: Beginning at the SE Corner of the W/2 NE/4 SW/4 of Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma; thence N 00°09'26"W, on East line W/2 NE/4 SW/4, a distance of 660.19 feet to the NE Corner of the Sw/4 NE/4 SW/4 of said Section 19; thence N 72°31'52"W, a distance of 20.44 feet; thence S 25°39'14"W, a distance of 355.06 feet; thence S11°39'14"W, a distance of 631.36 feet; thence N 89°29'45"E, a distance of 139.83 feet; thence S 00°09'26"E, a distance of 150.00 feet; thence S 52°16'54"E, a distance of 111.12 feet; thence N 00°09'26"W, a distance of 210.00 feet; thence N 85°20'00"E, a distance of 76.00 feet; thence N 00°09'26"W, a distance of 272.65 feet to the Point of Beginning; and;

Tract 3: A tract of land lying in and being a part of Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma, more particularly described as: Beginning at the NE Corner of the NW/4 of the SW/4 of the NE/4 of said Section 19; thence S 00°10'49"E on East line NW/4 SW/4 NE/4, a distance of 660.45 feet to the SE Corner of the NW/4 SW/4 NE/4; thence N 89°25'42"E on North line SE/4 SW/4 NE/4, a distance of 660.27 feet to the NE Corner of the SE/4 SW/4 NE/4; thence S 00°11'45"E on East line W/2 E/2 Section 19, a distance of 1321.17 feet to the SE Corner of the NE/4 NW/4 SE/4; thence S 89°27'17"W on South line N/2 NW/4 SE/4, a distance of 1321.27 feet to the SW Corner of the NW/4 NW/4 SE/4; thence N00°09'52"W on West line NW/4 NW/4 SE/4, a distance of 660.42 feet to the center of Section 19; thence S 89°27'18"W on South line NW/4, a distance of 660.85 feet; thence N 01°10'16"W, a distance of 35.00 feet; thence N88°57'02"E, a distance of 252.85 feet; thence N

12°26'34"E, a distance of 216.25 feet; thence N 08°39'10"E, a distance of 168.19 feet; thence N11°27'20"E, a distance of 150.33 feet; thence N37°20'44"W, a distance of 133.87 feet; thence N09°47'38"W, a distance of 259.36 feet; thence N19°51'37"W, a distance of 273.88 feet; thence N02°55'09"W, a distance of 137.44 feet; thence N89°25'34"E, a distance of 530.52 feet; thence N89°24'07"E, a distance of 660.09 feet to the Point of Beginning;

and;

Tract 4: Beginning at a point on the North line of SE/4 of the NW/4 of Section 19, Township 17 North, Range 23 East, Cherokee County, Oklahoma, a distance of 644.90 feet East of the NW Corner of the SE/4 of the NW/4 of Section 19; thence S00°38'59"E on Centerline of existing County Road, a distance of 748.29 feet; thence S88°52'26"E, a distance of 363.90 feet; thence N37°20'44"W, a distance of 133.87 feet; thence N09°47'38"W, a distance of 259.36 feet; thence N19°51'37"W, a distance of 273.88 feet; thence N02°55'09"W, a distance of 137.44 feet; thence S89°25'34"W, a distance of 146.95 feet to the Point of Beginning.

and;

The West Half of the Northwest Quarter of the Southwest Quarter (W1/2 NW1/2 SW1/2), the Southeast Quarter of the Southwest Quarter of the Southwest Quarter of the Southwest Quarter (1/4) (SE1/4 SW1/4 SW1/4), the Southwest Quarter of the Southeast Quarter of the Southwest Quarter (SW1/4 SE1/4 SW1/4), and the West Half of the Southwest Quarter of the Southwest Quarter (W1/2 SW1/4 SW1/4), all in Section Eight (8); The South Half of the Southeast Quarter of the Southeast Quarter (S1/2 SE1/4 SE1/4), the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4), the Northeast Quarter of the Southeast Quarter (NE1/4 SE1/4), and the North Half of the Southeast Quarter of the Southeast Quarter N1/2 SE1/4 SE1/4), all in Section Seven (7); and

The Northwest Quarter of the Northwest Quarter of the Northwest Quarter (NW1/4 NW1/4 NW1/4) of Section Seventeen (17), All in Township Twenty (20) North, Range Twenty-five (25), East of the 6th P.M., Delaware County, Oklahoma, together with all the improvements thereon and the appurtenances thereunto belonging, and warrant the title to the same.

and;

W1/2 NW1/2 of Section 20, Township 20 North, Range 25 East, Delaware County, Oklahoma, containing 90 acres, more or less, according to the Government Survey thereof,

and;

Lots 1, 2, 3 and the North 17, 37 acres of Lot 4, and the E/2 NW/4 and the NE/4 and the W/2 NW/4 SE/4 and the NE/4 SW/4 of Section 19, Township 20 North, Range 25 East, Delaware County, Oklahoma.

and;

The SW1/4 SW1/4 and N1/2 SE1/4 SW1/4 and SW1/4 SE1/4 SW1/4 of Section 17, Township 20 North, Range 25 East and The N1/2 NE1/4 and

S1/2 NE1/4 and NW1/4 SE1/4 and W1/2 NE1/4 SE1/4 and S1/2 SE1/4 and Lot 4 and SE1/2 SW1/4 and E1/2 NE1/4 SW1/4 of Section 18, Township 20 North, Range 25 East, Delaware County, State of Oklahoma.

and;

The NW1/4 (otherwise described as Lots 1 and 2 and the E1/2 NW1/4) and the E1/2 of Lot 3 and the W1/2 NE1/4 SW1/4 of Section 18, Township 20 North, Range 25 East, Delaware County, Oklahoma.

and;

The SW1/4 SW1/4 and N1/2 SE1/2 SW1/4 and SW1/2 SE1/4 SW1/4 of Section 17, Township 20 north, Range 25 East, and The N1/2 NE1/4 NE1/4 and S1/2 NE1/4 and NW1/2 SE1/4 and W1/2 NE1/4 SE1/2 and S1/2 SE1/4 and Lot 4 and SE1/4 SW1/4 and E1/2 NE1/4 SW1/2 of Section 18, Township 20 North, Range 25 East, Delaware County, State of Oklahoma,

and;

Northeast 10 acres of Lot 3 and West Half of the Southeast Quarter of the Southwest Quarter (W/2 SE/4 SW/4); and South Half of the Northeast Quarter of the Southwest Quarter (S/2 NE/4 SW/4) and the North Half of the Southwest Quarter of the Northwest Quarter of the Southeast Quarter (N/2 SW/4 NW/4 SE/4) of Section Seven (7), Township Twenty (20) North, Range Twenty-five (25) East; containing 55 acres, more or less, Delaware County, Oklahoma.

and;

The SW1/4 NW1/4 NE1/4 and NW1/4 SW1/4 NE1/2 of Section 24, Township 20 N., Range 24 E., Delaware County, Oklahoma.

and;

The E1/2 SE1/4 NW1/4 and E1/2 NE1/4 SW1/4 and E1/2 NW1/4 SE1/4 and S1/2 SW1/4 NE1/4 and NE1/2 SW1/4 NE1/4 of Section 24, Township 20 N., Rge. 24 E., Delaware County,

and;

The NE1/4 NE1/4 of Section 24, Township 20 North, Range 24 East, Delaware County, Oklahoma.

and;

The N/2 NW/4 NE/4 and SE/4 NW/4 NE/4, Section 24, Township 20 North, Range 24 East Delaware County, Oklahoma, LESS AND EXCEPT all oil, gas and other minerals.

and;

NW1/4 SE1/4; E/2 NE1/4 SW1/4; SW1/4 NE1/4; SW1/4 NW1/4 NE1/4; E/2 SE1/4 NW1/4; All in Section 24, Township 20 North, Range 24 East, Delaware County.

Upon information and belief, the Hayes Family Limited Partnership permits Flint Creek Farm, LLC to operate on its property. Flint Creek Farm, LLC systematically applies fertilizers and other chemicals on the property for hay production within the IRW within

the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Flint Creek Farm, LLC's conduct and operations, which has been permitted on the property by the Hayes Family Limited Partnership and which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

134. Third Party Defendant, Flint Creek Farm, LLC is a limited liability company under the laws of Oklahoma and is operating on the property located at 550 Rd., Colcord, Oklahoma within the IRW, on property owned by the Hayes Family Limited Partnership more specifically described in Paragraph No.133, above. Third Party Defendant, Flint Creek Farm, LLC's activities include but are not limited to the systematic application of fertilizers and other chemicals to the property owned by the Hayes Family Limited Partnership for hay production within the tributaries within IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Flint Creek Farm, LLC's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

135. Third Party Defendants, James Thomas and Erin Jones have legal title to the property located at Rd 770, Colcord, Oklahoma, more specifically identified as:

Lot 4; and N/2 SW NW in Section 4, T 16 N, R 23 E (approximately 72.90 acres);

Lot 1, less 1 acre for cemetery, and Lot 2, in Section 5, T 16 N, R 23 E, including house and improvements (approximately 104.62 acres); N1/2 S1/2 NE1/4, Less the West 100' thereof, in Section 5, T 16 N, R 23 E (approximately 38.50 acres), subject to an easement for lateral lines to over the East 120' of the West 220' of the N1/2 SW1/4 NE1/4; SW1/4 SE1/4; S1/2 NW1/4 SE1/4; NE1/4 NW1/4 SE1/4 in Section 32, T 17 N, R 23E (approximately 70.00 acres); SE 1/4 SW1/4; E1/2 SW1/4 SW1/4; SE1/4 NW1/4 SW1/4; S1/2 NE1/4 SW 1/4 in Section 32, T 17 N, R 23 E (approximately 90.00 acres).

Upon information and belief, James Thomas and Erin Jones systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then James Thomas and Erin Jones' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

136. Third Party Defendants, Tim and Isabel Baker are Co-Trustees of the Tim and Isabel Baker Trust. The Tim and Isabel Trust has legal title to the property located at 757 Rd., Stilwell, Oklahoma, more specifically identified as:

The SE/4 of SW/4 and the SW/4 of SE/4 of §28-T17N-R23E, containing 80 acres, more or less; and The S/2 of NW/4 and the S/2 of NW/4 of NW/4 and the E/2 of NE/4 of NW/4 of NW/4 of §33-T17N-R23E, containing 105 acres, more or less;

and;

Lot 3 and the S1/2 of Lot 4 in Block 5 in Oakwood Subdivision, a



Subdivision of a part of the NE1/4 of §33-T17N-R22E to the City of Tahlequah, Cherokee County, Oklahoma, according to the recorded plat thereof; The S 70.0 ft of Lot 2 in Block 116, and the North 50 ft of Lot 3 in Block 116 in the City of Tahlequah, Cherokee County, Oklahoma; Lots 9 and 10 in Block 88 in the City of Tahlequah, Cherokee County, Oklahoma according to the official plat thereof; Lot 2, Block 3, Baker Second Subdivision, City of Tahlequah, Cherokee County, Oklahoma; Lot 2, Block 4, Baker Second Subdivision, City of Tahlequah, Cherokee County, Oklahoma; The S1/2 NE1/4 NW1/4 and the N1/2 SE1/4 NW1/4 and the W1/2 NW1/4 NW1/4 less one acre previously conveyed, and the SE1/4 NW1/4 NW1/4 and the E1/2 SW1/4 NW1/4 and the NE1/4 of Section 32-T17N-R23E, Cherokee County, Oklahoma, containing 249 acres; A tract of land lying in the SW1/4 SW1/4 SW1/4 of Section 22-T17N-R22E, Cherokee County, Oklahoma, more particularly described as follows, to wit: beginning at a point 126.0 feet North of SW corner of said SW1/4 SW1/4 SW1/4; thence North 50.0 feet; thence East 395 feet; thence South 176.0 feet; thence West 50.0 feet; thence North 126.0 feet; thence West 345.0 feet, to the point of beginning, Cherokee County, Oklahoma, containing 0.6 acres (prior deed reference Book 684 Page 1067-72). A tract of land lying in the SW1/4 SW1/4 SW1/4 of Section 29-T17-R23E, Cherokee County, Oklahoma, more particularly described as beginning at the Southwest corner of the said SW1/4 SW1/4 SW1/4; thence N 0°00'10"East along the West boundary of said SW1/4 SW1/4 SW1/4 60.0 feet; thence South 86°49'50" East 663.9 feet to a point on the East boundary of said SW1/4 SW1/4 SW1/4; thence South 0°01'30" East 23.52 feet to the Southeast corner of said SW1/4 SW1/4 SW1/4; thence North 89°50'49" West 662.9 feet to the point of beginning, containing .064 acres, more or less.

Upon information and belief, Tim and Isabel Baker as Co-Trustees of the Tim and Isabel Baker Trust has systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the Tim and Isabel Baker Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

137. Third Party Defendants, Dale E. and Ellen Mathews are Co-Trustees of the Dale E. Mathews Trust. The Dale E. Mathews Trust has legal title to the property located at 757 Rd., Stilwell, Oklahoma, more specifically identified as:

The NW4 of the NE4 of the SE4, and a tract, to-wit: Beginning at the NE/Corner of the NW4 of SE4; Thence South 2640.0 feet to the SE/Corner of the SW/4 of SE/4; Thence West, along the S/line of said Section a distance of 3,300.0 feet; Thence North a distance of 330.0 feet; Thence, on a straight line, to the Point of Beginning, all being in Section 8, Township 16 North, Range 23 EIM: AND The NE4 and the E2 of the E2 of the NW4 and the SW4 of the NE4 of the NW4 of Section 17, Township 16 North, Range 23 EIM. LESS AND EXCEPT: One half of the Oil, Gas and Minerals reserved in previous grantors. The East Half of the Northwest Quarter of Section 21, Township 17 North, Range 22 East -- less interest heretofore deeded to church (a small portion of land in the Northeast corner of said 80 acres containing one acre more or less) and subject to easements and rights of way now existing. The Northwest Quarter (NW/4) of Section Twenty-Seven, Township Eleven North, Range Nineteen East (27-11-19), containing One Hundred Sixty Acres. The Northeast Quarter (NE/4) of Section Ten (10), Township Ten (10) North, Range Nineteen (19) East, containing 160 acres, more or less, according to the U.S. Survey thereof. Lot 9, in Block 1, College Addition to the City of Tahlequah, Oklahoma, according to the official plat thereof. South-half of the Southwest Quarter and Southwest Quarter of Southeast Quarter and Northwest Quarter of Southwest Quarter and West-Half of Northeast Quarter of Southwest Quarter and Southeast Quarter of Northeast Quarter of Southwest Quarter and West-Half of Northwest Quarter and South-Half of Northeast Quarter of Northwest Quarter and North-Half of Southeast Quarter of Northwest Quarter and Southwest Quarter of Southeast Quarter of Northwest Quarter, all in Section 22, Township 11 North, Range 19 East, and containing 320 acres, more or less.

Upon information and belief, Dale E. and Ellen Mathews as Co-Trustees of the Dale E. Mathew Trust have systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Dale E.

Mathews Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

138. Third Party Defendants, Gail Wilton and Carl Merseburgh have legal title to the property located at 752 Rd., Tahlequah, Oklahoma more specifically identified as:

The NE4 of NE4 less the following Tract: Beginning at the NE/Corner of said NE4 of NE4; thence West 220.0 feet; thence in a southwesterly direction to a point 679.0 feet West of the SE/Corner of the NE4 of NE4; thence South 26.0 feet; thence South 68 degrees 11'55" East a distance of 215.41 feet; thence South 76 degrees 11'55" East a distance of 205.92 feet; thence South 72 degrees 50' 41" East a distance of 240.71 feet; thence East 49.0 feet to the East line of said NE4 of NE4; thence North 886.0 feet to the point of Beginning; and the SE4 of NW4 of NE4 and the S2 of NE4 and the N2 of SE4 of Section 23, and the W2 of the NW4 of SW4 of Section 24, Township 17 North, Range 23 East, 9 miles east northeast of Tahlequah in Cherokee County, Oklahoma.

Upon information and belief, Gail Wilton and Carl Merseburgh systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Gail Wilton and Carl Merseburgh's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity..

139. Third Party Defendants, Roger K. and Linda Mathis Canada have legal title to the property located at County Road 04996, Proctor, Oklahoma more specifically identified as:

The W1/2 of NW 1/4 of SW1/4 of Section 9, Township 17, North, Range 24 East.

and;

All that part of the SW NW SE and the N1/2 NE SW and the E1/2 NW SW and the N1/2 SW SW and the SW SW SW of Section 9, lying and being South of the main line center line of Barron Creek; and SE SW SW and S1/2 NE SW and SE SW of Section 9; and E1/2 NE NW and NW NE NW and NE NW NW of Section 16; and SE SE SE of Section 8, Township 17 North, Range 24 East, less and except all that part of SE SE SE of Section 8 lying and being North and West of the main line center line of Barron Fork Creek; all in Township 17 North, Range 24 East.

and;

All that part of the SW4 NW4 SE4 and the N1/2 NE4 SW4 and the E1/2 NW4 SW4 and the N1/2 SW4 SW4 and the SW4 SW4 SW4 of Section 9, lying and being South of the main line centerline of Barron Fork Creek; AND the SE4 SW4 SW4 and the S1/2 NE4 SW4 and the SE4 SW4 of Section 9, Township 17 North, Range 24 East of the Indian Base and Meridian Adair County, Oklahoma. Tracts contain a total of 99.8 acres more or less.

and;

All that part of the NW NW and the NE NW and the NW NE and the W1/2 NE NE lying and being South of the main line centerline of Baron Fork Creek AND S1/2 of N1/2 All in Section 17, Township 17 North, Range 24 East AND An easement across the existing road that crosses the SW1/4 of Section 16 and across the S1/2 of Section 17, all in Township 17 North, Range 24 East.

and;

All that part of the NW NW and the E1/2 of NW NE and the W1/2 NE NE lying and being South of the main line centerline Baron Fork Creek AND S1/2 of N1/2 and the W1/2 NW NE and the NE NW All in Section 17, Township 17 North, Range 24 East.

and;

An easement across the exising road that crosses the SW1/4 of Section 16 and across the S1/2 of Section 17, all in Township 17 North, Range 24 East.

and;

W1/2 NW SW of Section 9, Township 17 North, Range 24 East.

and;

All that part of the NE SW SW and all that part of the W1/2 SW SW, less the NW NW SW SW and W1/2 NE NW SW SW, lying and being West of the main line center line of Barren [sic.] Fork Creek, all in Section 9, Township 17 North, Range 24 East.

and;

All that part of the SE SE SE of Section 8, Township 17 North, Range 24 East lying and being North and West of the main line center line of Barron Fork Creek.

and;

The SW/4 of SE/4 of SE/4 and N/2 of SE/4 of SE/4 of Section 8, and a tract beginning at the Northwest corner of NE/4 of NE/4 of NE/4 of Section 17, running South to Baron Fork Creek; thence in a Northwesterly direction down said Creek to intersection of Section line between Sections 8 and 17; thence East along said Section line to place of beginning, being all the NW/4 of NE/4 of NE/4 and NE/4 of NW/4 of NE/4 of Section 17, lying and being North of Baron Fork Creek, all being in Township 17 North, Range 24 East.

and;

W1/2 NW1/4 SW1/4 of Section 9, Township 17 North, Range 24 East.

Upon information and belief, Roger K. and Linda Mathis Canada systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Roger K. and Linda Mathis Canada's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

140. Third Party Defendants, Billie D. Howard and Richard M. Taylor as tenants in common, have legal title to certain portions of the property located at County Rd. 04935, Westville, Oklahoma more specifically identified as:

SE/4 SE/4 and the NW/4 NE/4 NE/4 of Section 2, Township 17 North, Range 24 East,

and;

The NW SW of Section 12 and the SW NE SE and E1/2 NE SE and NE SE SE and all that part of a tract of land beginning at the Northeast corner of said SW SE; thence running South on the East line of said tract to the Southeast corner of said tract, Thence West along the South line of said tract 40 rods; thence in a NOrtheast [sic.] direction to the place of beginning, lying and being North of U.S. highway #62 right-of-way, of Section 11, all in Township 17 North, Range 24 East;

and;

All that part of the NW1/4 of SE1/4 of SE1/4 lying and being North of U.S. #62 highway right of way of Section 11, Township 17 North, Range 24 East.

and;

The W1/2 of the SW1/4 of the SW1/4 of Section 12, Township 17 North, Range 24 East, Adair County, Oklahoma;

and;

The following described tracts of land all lying in Section 11, Township 17 North, Range 24 East, Adair County, Oklahoma; All that part of the S1/2 of the SE1/4 of the SE1/4 lying South and West of U.S. Highway No. 62; and all that part of the NW 1/4 of the SE1/4 of the SE1/4 lying South and West of U.S. Highway No. 62; and all that part of the E1/2 of the SW1/4 of the SE1/4 which lies South of U.S. Highway No. 62 and Southeast of a line beginning at the Southwest corner of said E1/2 of the SW1/4 of the SE1/4, and which runs THENCE North 25°45'30" East to the Northeast corner of said E1/2 of the SW1/4 of the SE1/4; and all that part of the SE1/4 of the SE1/4 of the SE1/4 lying North and East of U.S. Highway No. 62 except therefrom that portion of said SE1/4 of the SE1/4 of the SE1/4 described as: BEGINNING at the Southeast corner of said SE1/4 of the SE1/4 of the SE1/4; THENCE North 01°18'33" West a distance of 176.21; THENCE South 85°22'45" West a distance of 364.71 feet; THENCE South 28°26'35" East a distance of 114.00 feet; THENCE South 33°49'40" East a distance of 56.23 to a point on the South line of said SE1/4 of the SE1/4 of the SE1/4; THENCE North 89°58'00" East at distance of 281.95 to the POINT OF BEGINNING.

and;

Part of the SE SE SE of Section 11, and part of the NE NE NE of Section 14, Township 17 North, Range 24 East, more particularly described as follows: Beginning at the NE corner of said Section 14; thence South 322.00 feet to the centerline of U.S. Highway 62; thence along said centerline, N.49°48'20"W., 93.00 feet; thence N.40°43'55"W., 217.00 feet; thence N.33°49'40"W., 173.50 feet; thence N.28°26'35"W., 114.00 feet; thence leaving said centerline N.85°22'45"E., 364.71 feet; thence South 176.21 feet to the point of beginning, containing 2.34 acres, more or less, subject to the right-of-way said highway.

Upon information and belief, Billie D. Howard and Richard M. Taylor systematically apply fertilizers and other chemicals to the property for hay production within the IRW.

The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the

Complaint (which is denied), then Billie D. Howard and Richard M. Taylor's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

141. Third Party Defendant, Richard M. Taylor, also has sole legal title to the certain portions of the property located at County Rd. 04935, Westville, Oklahoma more specifically identified as:

The W/2 of the W/2 of the NW4 and the W/2 of the W/2 of the SW4 of Section 2, Township 17 North, Range 24 East, Adair County, Oklahoma and the NW4 of the NW4 of the NW4 of Section 11, Township 17 North, Range 24 East, Adair County, Oklahoma, and the E/2 of the NE4 of the NE4 and the NW4 of the NE4 of the NE4 of Section 10, Township 17 North, Range 24 East, Adair County, Oklahoma.

and;

The NE4 of the NW4 and the E/2 of the W/2 of the NW4 and the W/2 of the SE4 of the NW4 and the NE4 of the SE4 of the NW4 and the NE4 of the SE4 of the NW4 and the E/2 of the W/2 of the SW4 of Section 2, Township 17 North, Range 24 East, Adair County, Oklahoma.

and;

The NE1/4 of the NE1/4 of the NW1/4 of Section 11, Township 17 North, Range 24 East, Adair County, Oklahoma.

and;

Beginning at the NW corner of Lot 5, Block 19, Original Town of Westville, Oklahoma, and extending East along the North line of said Lot 22.7 feet; Thence due South on a straight line to a point 50 feet East of the SW corner of said Lot; Thence West to the SW corner of said Lot; Thence North along the West line of said Lot to the point of Beginning, Adair County, Oklahoma.

and;

Beginning 50 feet North of the half mile corner of Section 18, Township 17 North, Range 25 East, and running North 135 feet; Thence East 155 feet; Thence South 135 feet; Thence West 155 feet to the place of beginning, and containing two lots, one 60 feet by 155 feet, the other 75 feet by 155 feet, Adair County, Oklahoma.

and;

The E2 of NE4 of NE4 and NW4 of NE4 of NE4 of Section 10, Township 17 North, Range 24 East and NW4 of NW4 of NW4 of Section 11, Township 17 North, Range 24 East, and W2 of SW4 and SW4 of NW4 and W2 of SE4 of NW4 and SW4 of NW4 of NW4 of Section 2,



Township 17 North, Range 24 East; and

That portion of the W/2 W/2 NW SE of Section 31, Township 18 North, Range 26 East, described as follows: Beginning at the point of intersection of the Centerline of West Main Street with the West line of the Original Town of Westville; thence S78°55'W., 75.00 feet; thence North 110.0 feet; thence N.78°55'E., 75.00 feet; thence South 110.0 feet to the point of beginning. AND

The NW1/4 of NW1/4 of NW1/4 and E1/2 of NW1/4 of NW1/4 and NE1/4 of NW1/4 and NE1/4 of SE1/4 of NW1/4 of Section 2, Township 17 North, Range 24 East. AND The NE1/4 and N1/2 NW SE and NW NE SE of Section 11, and S1/2 NW and S1/2 N1/2 NW and NE NW NW and NW NE NW of Section 12, all in Township 17 North, Range 24 East.

Upon information and belief, Richard M. Taylor systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Richard M. Taylor's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

142. Third Party Defendant, Ivan Marion has legal title to the property located at Rd 761, Westville, Oklahoma more specifically identified as:

S2 and W2 SW NW and SE SW NW of Section 27, Township 17 North, Range 26 East; and SE SE of Section 28, Township 17 North, Range 26 East; and Part of the SW NW beginning at the NW Corner of SW NW; thence running East of 1270 feet; thence S 17° West 953 feet; thence S 69° West 130 feet to branch; thence NW down branch 929 feet to Section line; thence North 500 feet to point of beginning; and the West 1270 feet of the S2 NW NW and N2 N2 NW all being in Section 34, Township 17 North, Range 26 East.

and;

SW SW of Section 27, and the E/2 SE SE and E/2 SW SE SE of Section 28, and N/2 NW NW and the N/2 NE NW of Section 34, all in Township 17 North, Range 26 East.

and;

Lot 3 and Lot 4 and SE $\frac{1}{4}$  of SW $\frac{1}{4}$  of Section 27 and NW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 28 all in Township 17 North, Range 26 East.

and;

Lot 3 and Lot 4 and E $\frac{1}{2}$  of NW $\frac{1}{4}$  of SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of SW $\frac{1}{4}$  and SW $\frac{1}{4}$  of SW $\frac{1}{4}$  of NW $\frac{1}{4}$  of Section 27, and NW $\frac{1}{4}$  SE $\frac{1}{4}$  SE $\frac{1}{4}$  of Section 28 all in Township 17 North, Range 26 East.

and;

The W $\frac{1}{2}$  SW SE SE of Section 28, and a part of the SW NW: Beginning at the NW Corner of the SW NW; thence running East 1270 feet; thence South 17 degrees West 953 feet; thence South 69 degrees West 130 feet to branch; thence NW down the branch 929 feet to the Section line, thence North 500 feet to place of beginning; containing 21 acres more or less, and the West 1270 feet of the S $\frac{1}{2}$  NW NW of Section 34, less a tract of land beginning at the NW corner of S $\frac{1}{2}$  NW NW of Section 34, thence East approximately 260 yards to the center of canyon, thence in a Southwesterly direction along the center of said canyon to the intersection of the West line of said Section 34, thence North 160 yards to the place of beginning, all being in Township 17 North, Range 26 East.

Upon information and belief, Ivan Marion systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Ivan Marion's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

143. Third Party Defendant, Daniel L. Parker has legal title to the property located at HC 73, Box 892, Park Hill, Oklahoma more specifically identified as:

The SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 23, Township 15 North, Range 22 East, Cherokee County, Oklahoma, LESS and EXCEPT the following tract of land, to-wit: BEGINNING at a Point 311.50 feet North and 160.40 feet East of the S $\frac{1}{4}$  corner of said Section 23; thence N 00°12'56" W for a distance of 233.00 feet; thence N 89°56'00" E for a distance of 186.95 feet; thence S 00°12'56" E for a distance of 233.00 feet; thence S 89°56'00" W for a distance of 186.95 feet to the Point of Beginning, containing 1.0

acres, more or less, AND LESS and EXCEPT the following tract of land, to-wit; BEGINNING at a Point 311.50 feet North of the S/4 corner of said Section 23, thence East 160.40 feet; thence South 20.00 feet; thence West 160.60 feet; thence North 20.00 feet to the Point of Beginning; according to the U.S. Survey thereof.

and;

The NW4 of the NE4 of the NE4 of Section 26, Township 15 North, Range 22 East, Cherokee County, Oklahoma, LESS and EXCEPT the following tract of land, to-wit; The North 374.45 feet of the East 208.71 feet of the NW4 of the NE4 of the NE4 of Section 26, Township 15 North, Range 22 East,

and;

LESS and EXCEPT the following tract of land, to-wit; BEGINNING at a point of the East boundry [sic.] and 374.45 feet South of the NE corner of said NW4 NE 4 NE4; thence S 00°15' E for a distance of 208.71 feet along the East boundry [sic.] of said NW4 NE4 NE4; thence S 89°45'E for a distance of 208.71 feet; thence N 00°15'W for a distance of 208.71 feet; thence N 89°45'E for a distance of 208.71 feet to the Point of Beginning. AND The N2 of the NW4 of the NE4 of Section 26, Township 15 North, Range 22 East, LESS and EXCEPT the West 100.00 feet thereof. AND A tract in the S2 of the NW4 of the NE4 of Section 26, Township 15 North, Range 22 East, Cherokee County, Oklahoma, more particularly described as following, to-wit; BEGINNING at the NE corner of the SE4 NW4 NE4 of said Section 26, thence S 69°30'W for a distance of 158.0 feet; thence S 65°00'W for a distance of 160.00 feet; thence S 75°00'W for a distance of 400.00 feet; thence Southwest on a direct line a distance of 556.3 feet, more or less, to a Point 100.0 feet, East and 1014.0 feet North of the SW corner of the NW4 of the SW4 of the NE4 of said Section 26; thence North a distance of 354.0 feet, more or less, thence East a distance of 1220.0 feet to the Point of Beginning, according to the U.S. Survey thereof. And A tract of land in the SW4 of the NE4 of the NE4 of Section 26, Township 15 North, Range 22 East, more particularly described as follows, to-wit: BEGINNING at the NW corner of the SW4 NE4 NE4 of said Section 26; thence S 33° E for a distance of 200.0 feet; thence Southeasterly on a direct line a distance of 595.0 feet to a Point of 385.0 feet South of the NE corner of the SW4 NE4 NE4; thence North a distance of 385.0 feet; thence West a distance of 660.0 feet to the Point of Beginning, according to the U.S. Survey thereof.

and;

The South 120.0 feet of the North 480.0 feet of the West 100.0 feet of the NW4 of the NW4 of the NE4 of Section 26, Township 15 North, Range 22 East, according to the United States Survey thereof; and lot 8 Block 8 in Pettit Bayside Homes, a subdivision of the NE4 of the NW4 of Section 26 and of the S2 of the SE4 of the SW4 of Section 23, Township 15 North, Range 22 East located in Cherokee County, Oklahoma.

Upon information and belief, Daniel L. Parker systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Daniel L. Parker's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

144. Third Party Defendants, Bartow and Wanda Hix have legal title to the property located at 11709 N. 569 Rd., Proctor, Oklahoma more specifically identified as:

A piece, parcel or tract of land situated in the Northwest Quarter of Section 36, Township 18 North, Range 22 East, more particularly described as follows, to-wit: Beginning at the Northwest Corner of NE4 of NW4 of NW4 of said Section; thence East to the center of the County Road, as the same now exists, at the point of the intersection of said Road with the North line of the NW4 of NE4 of NW4 of said Section; thence Southeasterly along the center of said Road to the point of intersection of said road with the East line of SE4 of NE4 of NW4 of said Section; thence South along the East line of said SE4 of NE4 of NW4 to the Southeast Corner of said SE4 of NE4 of NW4; thence West 660 feet; thence south 396 feet; thence West 660 feet; thence North 1056 feet; thence West 660 feet ; and thence North 660 feet to the Point of Beginning;  
and;

All that part of the SE4 of NW4 of NW4 and of the NE4 of SW4 of NW4 lying East of the Illinois River; all in Section 36, Township 18 North, Range 22 East containing 50 acres, more or less.

Upon information and belief, Bartow and Wanda Hix systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which

is denied), then Bartow and Wanda Hix's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

145. Third Party Defendant, Rickey Joe and Rita Hix have legal title to the property located at 11464 N. 569 Rd., Proctor, Oklahoma more specifically identified as:

The SW4 of the SW4 and the W2 of the SE4 of the SW4 and the SE4 of the SE4 of the SW4 of Section 25, Township 18 North, Range 22 East; and;

The SE4 of NW4 of SE4 and NE4 of SW4 of SE4 and SE4 of SW4 of SE4 of Section 36, Township 18 North, Range 22 East; and The E2 of the SE4 of the SW4 less 1½ acres thereof described as follows: Beginning at the NW corner of the said E2 of SE4 of SW4 and running thence East along North line thereof a distance of 150 feet to the West bank of a slough running across said tract, thence running in a Southerly direction along the bank of said slough, to the intersection of the West line of said 20 acre tract; thence North along the West line of said 20 acre tract a distance of 780 feet to the NW corner of said 20 acre tract the place of beginning; and all of the E2 of NE4 of SW4 and W2 of the W2 of the SE4 of Section 36, Township 18 North, Range 33 East of the Indian Meridian, containing 78½ acres of land more or less, according to the U.S. Survey thereof; and Lots 1 and 2 and the East 20 acres of Lot 3, and the SW4 NE4 and the NE4 of SE4 of SE4 of Section 1, Township 17 North, Range 22 East, and the South 20.89 acres of Lot 4 and Lot 5, and the SW4 SE4 NW4 of Section 6, Township 17 North, Range 23 East; and A tract of land described as follows: Beginning at the Northwest corner of the NE4 of NE4 of NW4 of Section 1, Township 17 North, Range 22 East; thence South 1320 feet, thence East 660 feet, thence South 1320 feet; thence West 660 feet, thence South 1320 feet; thence West 525 feet to the Center of the Main Channel of the Illinois River, as the same now exists, thence in a Northerly direction along the Center of the Main Channel of said river to the Point of Beginning; containing 60 acres, more or less; and The W2 of the NE4 of the NE4 of the SW4 and the W2 of the SE4 of the NE4 of the SW4, of Section 1, Township 17 North, Range 22 East, Cherokee County, Oklahoma; and The N2 of the SE4 of the NW4 and the SE4 of SE4 of NW4 of Section 6, Township 17 North, Range 23 East; and The SW4 of the NE4 of the SE4 of Section 6, Township 17 North, Range 23 East.

Upon information and belief, Rickey Joe and Rita Hix systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and

activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Rickey Joe and Rita Hix's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

146. Third Party Defendant, Jerry W. Hare is the Trustee of the Jerry Wayne Hare Revocable Trust, which owns a portion of the legal title to the property located at 25881 E. Lane School Rd, Tahlequah, Oklahoma also known as Crystal Creek Ranch, more specifically identified as:

The West Half (W/2) of the Southwest Quarter (SW/4) and the West Half (W/2) of the East Half (E/2) of the Southwest Quarter (SW/4) and the West Half (W/2) of the East Half (E/2) of the East Half (E/2) of the Southwest Quarter (SW/4), LESS the South 300 feet of the North 450 feet of the West 100 feet of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of the Southwest Quarter (SW/4) of Section Twenty-Six (26), Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma; and The Southeast One (1) square acre of the Southeast Quarter (SE/4) of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) and the Southeast Quarter (SE/4) of the Northwest Quarter (NW/4) and the West Half (W/2) of the Southwest Quarter (SW/4) of the Northeast Quarter (NE/4) of Section Twenty-six (26), Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma, containing 60.0 acres, more or less, according to the United States survey thereof; and The Southeast Quarter (SE/4) of the Southwest Quarter (SW/4) of the Northeast Quarter (NE/4) of Section Twenty-six (26), Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma, containing 10 acres more or less; and The West Half (W/2) of the Southwest Quarter (SW/4) and the West Half (W/2) of the East Half (E/2) of the Southwest Quarter (SW/4) and the West Half (W/2) of the East Half (E/2) of the East Half (E/2) of the Southwest Quarter (SW/4), LESS the South 300 feet of the North 450 feet of the West 100 feet of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of the Southwest Quarter (SW/4) of Section Twenty-six (26), Township Seventeen (17) North, Range Twenty-three (23) East of



the Indian Meridian, Cherokee County, Oklahoma; and The Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) LESS the East 132 feet of the Northeast Quarter (NE/4) of the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of Section Twenty-four (24), Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma, containing 38 acres, more or less; and The West Half (W/2) of the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) and the Northeast Quarter (NE/4) of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) and the Northwest Quarter (NW/4) of the Southeast Quarter (SE/4) of the Northwest Quarter (NW/4) of Section Twenty-five (25), Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma.

Upon information and belief, the Crystal Creek Ranch systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Jerry W. Hare and Crystal Creek Ranch's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

147. Third Party Defendant, Jerry W. and Mary Jo Hare, as husband and wife own a portion of the legal title to the property located at 25881 E. Lane School Rd, Tahlequah, Oklahoma, also known as Crystal Creek Ranch, and more specifically identified as:

The N2 of the SE4 of the SW4 of Section 24, Township 17 North, Range 23 East of the Indian Base and Meridian LESS a tract of land described as beginning at a point 330.26 feet East and 284.38 feet South of the NW corner of N2 SE4 SW4 of said Section 24; thence South 208.71 feet; thence East 208.71 feet; thence North 208.71 feet; thence West 208.71 feet to the point of beginning.



and;

A tract of land containing 1.00 acre more or less, located in the N2 SE4 SW4 of Section 24, T17N, R23E, I.B.&M. Cherokee County, Oklahoma, described as beginning at a point 330.26 feet East and 284.38 feet South of the NW corner of N2 SE4 SW4 of said Section 24; thence South 208.71 feet; thence East 208.71 feet; thence North 208.71 feet; thence West 208.71 feet to the point of beginning. AND The centerline of a 40 foot wide Access & Utility Easement located in the N2 SE4 SW4 of Section 24, T17N, R23E, I.B.&M., Cherokee County, Oklahoma, described as beginning at a point 518.97 feet East and 284.38 feet South of the NW corner of N2 SE4 SW4 of said Section 24; thence N 11 degrees 16'01" E a distance of 289.96 feet to the point of termination being the South shoulder of a county road and also being the North line of the SE4 SW4 of said Section 24.

Upon information and belief, Jerry W. and Mary Jo Hare systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Jerry W. and Mary Jo Hare's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

148. Third Party Defendant, Mary Jo Hare is the Trustee of the Mary Jo Hare Revocable Trust, owns a portion of the legal title to the property located at 25881 E. Lane School Rd, Tahlequah, Oklahoma, also known as Crystal Creek Ranch, and more specifically identified as:

The South 300 feet of the North 450 feet of the West 100 feet of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of the Southwest Quarter (SW/4) of Section Twenty-six (26), Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma; and The Northeast Quarter

(NE/4) of the Southeast Quarter (SE/4) and the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4) of the Northeast Quarter (NE/4) of Section Twenty-seven (27), Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma, LESS approximately 15 acres thereof separated from the tract by Baron Fork Creek and State Highway No. 51; and All that part of the East Half (E/2) of the Northeast Quarter (NE/4) of the Northeast Quarter (NE/4) lying Northerly of existing county road known as McLemore Hollow Road, and Easterly of State Highway #51, in Section Thirty-four (34), and all that part of the Southeast Quarter (SE/4) of the Southeast Quarter (SE/4) lying Northerly and Easterly of State Highway #51, in Section Twenty-seven (27), all in Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma; and All that part of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of the Northwest Quarter (NW/4) of Section Thirty-five (35), Township Seventeen (17) North, Range Twenty-three (23) East of the Indian Meridian, Cherokee County, Oklahoma lying North of the existing county road, according to the United States Survey thereof.

Upon information and belief, Mary Jo Hare as Trustee of the Mary Jo Hare Revocable Trust systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the Mary Jo Hare Revocable Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to her liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

149. Third Party Defendant, Anthony Wayne Hare, owns a portion of the legal title to the property located at 25881 E. Lane School Rd, Tahlequah, Oklahoma, also known as Crystal Creek Ranch, and more specifically identified as:

The W/2 of the SE/4 of NW/4 of Section 26, Township 17 North, Range 23 East, Cherokee County, Oklahoma; more particularly described as follows, to-wit: Commencing at the SW/Corner of the NW/4 of Section

26, Township 17 North, Range 23 East; Thence East for a distance of 1651.55 feet; Thence North a distance of 578.90 feet; to the True Point of Beginning; Thence N34°31'55"W, for a distance of 208.71 feet; thence N55°28'05"E, for a distance of 208.71 feet; thence S34°31'55"E, for a distance of 208.71 feet; Thence S55°28'05"W, for a distance of 208.71 feet; to the True Point of Beginning. LESS public road rights of way and subject to easements of record.

Upon information and belief, Anthony Wayne Hare systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Anthony Ware Hare's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

150. Third Party Defendants, Farrell and Jackie Hamm have legal title to some of the property located at RR3 Box 1460, Stilwell, Oklahoma more specifically identified as:

The East half of the Northeast Quarter of the Northeast Quarter (E1/2 NE1/4 NE1/4), in section 29, Township 17 North, Range 25 East, Adair County, Oklahoma.

and;

E1/2 of SE1/4 of NW1/4 of Section 29 Township 17 North, Range 25 East, 20 acres more or less.

Upon information and belief, Farrell and Jackie Hamm systematically apply fertilizers and other chemicals to the property for hay production within the IRW. Moreover, Farrell and Jackie Hamm mine gravel on their property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives

rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Farrell and Jackie Hamm's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

151. Third Party Defendant, Tony Marcus and Laura Jane Hamm and Farrell and Jackie Hamm have legal title to the some of the property located at RR3, Box 1460, Stilwell, Oklahoma more specifically identified as:

The S/2 of SW/4 of SE/4 and SW/4 of SE/4 of SE/4 and SE/4 of SE/4 of SW/4 of Section 20 and the W/2 of NE/4 and W/2 of E/2 of NE/4 and E/2 of NE/4 of NW/4 of Section 29, Township 17 North, Range 25 East of the Indian Meridian containing 180 acres more or less, all situated in Adair County, Oklahoma.

and;

W1/2 of SE1/4 of SW1/4 of Section 28, Township 17 North, Range 25 East.

Upon information and belief, Tony Marcus and Laura Jane Hamm and Farrell and Jackie Hamm systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Tony Marcus and Laura Jane Hamm and Farrell and Jackie Hamm's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

152. Third Party Defendant, Tom Hamm has legal title to some of the property located at RR3, Box 1480, Stilwell, Oklahoma more specifically identified as:

SW 1/4 of SW 1/4 LESS one acre of Section 28, Township 17 North, Range 25 East of the Indian Base Meridian all situated in Adair County, Oklahoma.

Upon information and belief, Tom Hamm systematically applies fertilizers and other chemicals to the property for hay production within the IRW. Tom Hamm also mines gravel on his property. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Tom Hamm's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

153. Third Party Defendant, Tom and Darylene Hamm have legal title to some of the property located at RR3, Box 1480, Stilwell, Oklahoma more specifically identified as:

W 1/2 of SE 1/4 of Section 28, Township 17 North, Range 25 East;  
and;

The NW1/4 of SE1/4 and N1/2 of SW1/4 of SE1/4 and SE1/4 of SE1/4 of Section 29, Township 17 North, Range 25 East.

and;

The SE1/4 of the NE1/4 of the SE1/4 of Section 29, Township 17 North, Range 25 East, containing 10 acres, more or less, situated in Adair County, Oklahoma.

and;

NE1/4 of SW1/4 of Section 29, Township 17 North, Range 25 East.

Upon information and belief, Tom and Darylene Hamm systematically apply fertilizers and other chemicals to the property for hay production within the IRW. Tom and Darylene Hamm also mine gravel on their property. The operations and activities described above have and continue to result in the release of phosphorus and other

constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Tom and Darylene Hamm's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

154. Third Party Defendant, Jim R. Bagby has legal title to the property located at RR2, Box 1711, Westville, Oklahoma, more specifically identified as:

W2 NW NW Lying & Being S of Co Rd & W 204' of NE NW NW Lying & being S of Co Rd, A tract of land located in the SW NW of Section 26, Township 17 North, Range 25 East, described as: All that part of the N1/2 SW NW and the N1/2 SE SW NW of Section 26, lying South and East of State Highway #59, subject to all easements of records; and Commencing at the SW corner of the N1/2 SE SW NW of Section 26 for the true point of beginning; thence N. 58°05'40"W., 401.36 feet; thence N. 31°54'20"E., 450.00 feet; thence S. 58°05'40"E., 523.03 feet; thence S. 31°54'20"W., 374.10 feet; thence S. 89°57'00"W., 143.40 feet; to the true point of beginning, subject to all easements of record.

and;

W1/2 NW NW and the West 204 feet of the NE NW NW and SE NW NW and N1/2 SW NW and N1/2 SE SW NW and that portion of the SW NE NW, lying West of Highway #17 and Highway #59, and SW SW NW, less that portion thereof described as follows: Beginning at the SE corner of said SW SW NW; thence North 330 feet to the SW corner of the N1/2 SE SW NW; thence S. 53°11'29"W., 375.62 feet; thence South 105.04 feet; thence East along the South line of said SW SW NW 300.79 feet to the SE corner of said SW SW NW; and less that portion of the SW NE NW of Section 26, described as beginning at the NW corner of said SW NE NW; thence N. 89°59'E., 127.80 feet to the true point of beginning; thence N. 89°59'E., 200.00 feet; thence S. 11°23'E., 106.08 feet; thence S. 89°59'W., 220.96 feet; thence N. 0°01'W., 104.00 feet to the true point of beginning; and less all that part of the N1/2 SW NW and the N1/2 SE SW NW, lying South and East of State Highway #59; and less a tract commencing at the SW corner of the N1/2 SE SW NW for the true point of beginning; thence N. 58°05'40"W., 401.36 feet; thence N. 31°54'20"E 450.00 feet; thence S. 58°05'40"E., 523.03 feet; thence S. 31°54'20"W., 374.10 feet; thence S. 89°57'00"W., 143.40 feet to the true point of beginning; and less a tract commencing at the SW corner of N1/2 SE SW NW for the true point of beginning; thence S. 53°11'29"W., 375.62 feet; thence N. 58°05'40"W., 265.00 feet; thence N. 31°54'20"E., 350.00 feet; thence S. 58°05'40"E.,

401.36 feet to the true point of beginning, all in Section 26, Township 17 North, Range 25 East; AND E1/2 E1/2 NE and W1/2 SE NE and NE NE SE of Section 27, Township 17 North, Range 25 East.

Upon information and belief, Jim R. Bagby systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Jim R. Bagby's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

155. Third Party Defendants, Jerry and Ann Means have legal title to the some portion of the property located at Rt 3, Box 340, Stilwell, Oklahoma, more specifically identified as:

That portion of the SE1/4 of the NE1/4 lying South of the County Road; and that portion of the SW1/4 of NE1/4 lying Northeast of the centerline of the Main Channel of Baron Fork Creek; and that portion of the E1/2 of the SE1/4 of the NW1/4 lying East of the center line of the Main Channel of Baron Fork Creek; and that portion of the SE1/4 of the NW1/4 of NE1/4 lying South of County Road; and that portion of the SW1/4 of the NE1/4 of the NE1/4 lying South of County Road, all in Section 21, Township 17 North, Range 25 East  
and;

The W1/2 of NW1/4 of SW1/4 of Section 22, Township 17 North, Range 25 East, LESS AND EXCEPT the North 208.71 feet of the West 208.71 feet thereof. Less That portion of the NE1/4 of SE1/4 and of the N1/2 of NW1/4 of SE1/4 of Section 21, Township 17 North, Range 25 East Adair County, Oklahoma described as follows: Beginning at the Southeast corner of said NE1/4 of SE1/4 of Section 21; thence North 75°36'32" West a distance of 193.23 feet; thence North 63°13'15" West a distance of 108.15 feet; thence South 86°34'45" West a distance of 114.36 feet; thence North 72°53'45" West a distance of 138.00 feet; thence North 59°56'45" West distance [sic.] of 162.70 feet; thence North 54°51'15" West a distance of 241.00 feet; thence North 37°28'15" East a distance of 188.71



feet; thence North 52°31'45" West a distance of 208.71 feet; thence South 37°28'15" West a distance of 208.71 feet; thence North 48°30'25" West a distance of 234.65 feet; thence North 32°48'32" West a distance of 184.89 feet; thence South 89°54'00" West a distance of 451.45 feet; thence North 45°15'17" West a distance of 772.84 feet to the North line of said N1/2 of NW1/4 of SE1/4; thence North 89°54'00" East a distance of 2321.01 feet to the Northeast corner of said NE1/4 of SE1/4; thence South 00°02'00" East a distance of 1320.00 feet to the point of beginning.

Upon information and belief, Jerry and Ann Means systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Jerry and Ann Means' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

156. Third Party Defendants, Jerry and Dorothy Ann Means, Trustees of the Dorothy Ann Means Trust, which has legal title to the some portion of the property located at Rt 3, Box 340, Stilwell, Oklahoma, more specifically identified as:

An undivided one-half (1/2) interest in and to the following described tract, to-wit: That portion of the NE1/4 of SE1/4 and of the N1/2 of NW1/4 of SE1/4 of Section 21, Township 17 North, Range 25 East Adair County, Oklahoma described as follows: Beginning at the Southeast corner of said NE1/4 of SE1/4 of Section 21; thence North 75°36'32" West a distance of 193.23 feet; thence North 63°13'15" West a distance of 108.15 feet; thence South 86°34'45" West a distance of 114.36 feet; thence North 72°53'45" West a distance of 138.00 feet; thence North 59°56'45" West distance [sic.] of 162.70 feet; thence North 54°51'15" West a distance of 241.00 feet; thence North 37°28'15" East a distance of 188.71 feet; thence North 52°31'45" West a distance of 208.71 feet; thence South 37°28'15" West a distance of 208.71 feet; thence North 48°30'25" West a distance of 234.65 feet; thence North 32°48'32" West a distance of 184.89 feet; thence South 89°54'00" West a distance of 451.45 feet; thence North 45°15'17" West a distance of 772.84 feet to the North line of said N1/2 of

NW1/4 of SE1/4; thence North 89°54'00" East a distance of 2321.01 feet to the Northeast corner of said NE1/4 of SE1/4; thence South 00°02'00" East a distance of 1320.00 feet to the point of beginning.

Upon information and belief, the Dorothy Ann Means Trust systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the Dorothy Ann Means Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

157. Third Party Defendants, Jerry and Dorothy Ann Means, Trustees of the Jerry L. Means Trust, which has legal title to the some portion of the property located at Rt 3, Box 340, Stilwell, Oklahoma, more specifically identified as:

An undivided one-half (1/2) interest in and to the following described tract, to-wit: That portion of the NE1/4 of SE1/4 and of the N1/2 of NW1/4 of SE1/4 of Section 21, Township 17 North, Range 25 East Adair County, Oklahoma described as follows: Beginning at the Southeast corner of said NE1/4 of SE1/4 of Section 21; thence North 75°36'32" West a distance of 193.23 feet; thence North 63°13'15" West a distance of 108.15 feet; thence South 86°34'45" West a distance of 114.36 feet; thence North 72°53'45" West a distance of 138.00 feet; thence North 59°56'45" West distance [sic.] of 162.70 feet; thence North 54°51'15" West a distance of 241.00 feet; thence North 37°28'15" East a distance of 188.71 feet; thence North 52°31'45" West a distance of 208.71 feet; thence South 37°28'15" West a distance of 208.71 feet; thence North 48°30'25" West a distance of 234.65 feet; thence North 32°48'32" West a distance of 184.89 feet; thence South 89°54'00" West a distance of 451.45 feet; thence North 45°15'17" West a distance of 772.84 feet to the North line of said N1/2 of NW1/4 of SE1/4; thence North 89°54'00" East a distance of 2321.01 feet to the Northeast corner of said NE1/4 of SE1/4; thence South 00°02'00" East a distance of 1320.00 feet to the point of beginning.

Upon information and belief, the Jerry L. Means Trust systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the Jerry L. Means Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

158. Third Party Defendants, Ronald Allen and Colleen Brown have legal title to the property located at RR1, Box 2325, Stilwell, Oklahoma, more specifically identified as:

The SW NW NE and W1/2 SW NE and S1/2 NW and SE NW NW and S1/2 NE NW and all that part of the SW NW NW and all that part of the NE NW NW lying and being South and East of main line center line of Baron Fork Creek and all that part of the W1/2 NW NW and NE NW NW lying and being North and West of Main line center line of Baron Fork Creek and South of County Road and the NW NE NW and right of ingress and egress in and to the East 30 feet of all that part of the NE NW NW lying and being North of the main line center line of Baron Fork creek, all in Section 33, Township 17 North, Range 26 East, all in Adair County, Oklahoma; AND All that portion or part of the NE NE NW of Section 33, Township 17 North, Range 26 East which lies South of the Baron Fork Creek, Adair County, Oklahoma and;

A part of the N1/2 NE SW and a part of the N1/2 NW SE of Section 33, Township 17 North, Range 26 East, being more particularly described as: Beginning at the NE corner of said N1/2 NW SE; thence along the East line thereof, S00°13'36"E 621.95 feet; thence N75°43'27" W 849.01 feet; thence S89°24'51"W 808.73 feet; thence N68°04'38"W 1091.29 feet to the NW corner of said N1/2 NE SW; thence along the North line of said N1/2 NE SW and the North line of said N1/2 NW SE N89°42'31"E 2641.44 feet to the point of beginning, subject to any easements of record.

Upon information and belief, Ronald Allen and Colleen Brown systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Ronald Allen and Colleen Brown's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

159. Third Party Defendants, Alfred E. and Carolyn S. Hembree have legal title to the property located at Rd 740, Westville, Oklahoma, more specifically identified as:

N $\frac{1}{2}$  of SW $\frac{1}{4}$  of SE $\frac{1}{4}$  and S $\frac{1}{2}$  of SW $\frac{1}{4}$  of Section 16, Township 17 North,  
Range 25 East, Adair County, State of Oklahoma.

Upon information and belief, Alfred E. and Carolyn S. Hembree systematically apply fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Alfred E. and Carolyn S. Hembree's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

160. Third Party Defendant, Steven Wesley Cain has legal title to the property located at 14263 N. 610 Rd., Proctor, Oklahoma, more specifically identified as:

The NW 10.57 acres of Lot 2 in Section 7, Township 17 North, Range 24 East, and the E2 of the SW 10.53 acres of Lot 2, and the E2 of the West 20.96 acres of Lot 3, of Section 7, Township 17 North, Range 24 East.

and;

The West Half of the Southwest 10.53 acres of Lot 2, less the North 69.58 Yards thereof, and the West Half of the West 20.96 acres of Lot 3, of Section 7, Township 17 North, Range 24 East.

and;

The East 20 acres of Lot 3 and the West 20.83 acres of Lot 4, of Section 7, Township 17 North and Range 24 East EXCEPT 1/2 minerals heretofore reserved.

and;

The NE4 of SW4 of Section 7, Township 17 North, Range 24 East, lying South of U.S. Highway #62.

and;

The North 69.58 yards of W/2 of SW4 of NW4 of Section 7, Township 17 North, Range 24 East. LESS AND EXCEPT: Beginning at the point where the West line of E2 of the SW 10.53 acres of Lot 2 intersects the center line of U.S. Highway 62; thence South along the West Line of E2 of the SW 10.53 acres of said Lot 2 229 feet/more or less to the Northerly bank of a slough; thence Southeasterly along the Northerly bank of said slough to the intersection of the Northerly bank of said slough with the East line of the E2 of the SW 10.53 acres of Lot 2; thence North along the said East line of the said E2 of the SW10.53 acres of Lot 2 422 feet more or less to the center line of U.S. Highway 62; thence Westerly along the center line of U.S. Highway 62 to the point of beginning, all in Section 7, Township 17 North, Range 24 East.

and;

The North 69.58 yards of the W/2 of SW4 of NW4 of Section 7, Township 17 North, Range 24 East.

and;

The North Forty-Four Yards of the SE4 of NE4 of SE4 and all of the NE4 of NE4 of SE4 of Section 12, Township 17 North, Range 23 East, containing 12 acres, more or less,

and;

The SE4 of NE4 of SE4, Less Two acres, of Section 12, Township 17 North, Range 23 East, containing 8 acres more or less, according to the United States Survey thereof,

and;

The SE4 of the NE4 and the W2 of the NE4 of the SE4 of Section 12, Township 17 North, Range 23 East, LESS U.S. Highway No. 62, right of way and LESS Cherokee County Road Right of way.

Upon information and belief, Steven Wesley Cain systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Steven Wesley Cain's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

161. Third Party Defendant, Wanda L. Dotson, has legal title to the property located at 752 Rd, Tahlequah, Oklahoma, more specifically identified as:

The SE4 of the SE4 and the S2 of the SW4 of the SE4 and the S2 of the SE4 of the SW4 of Section 12,  
and;  
The NE4 and the E2 of the NW4 and the N2 of the NE4 of the SE4 and the W2 of the SE4 and the E2 of the SW4 and the E2 of the NW4 of the SW4 of Section 13, all in Township 17 North, Range 23 East, containing 520.0 acres, more or less, according to the United States Survey thereof.

Upon information and belief, Wanda L. Dotson permits cattle to graze and deposit manure on the above referenced property. Additionally, Wanda L. Dotson systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Wanda L. Dotson's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to her liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

162. Third Party Defendant, River Farms of Tahlequah, LLC, is a limited liability company under the laws of Oklahoma, and has its principal place of business in Oklahoma. River Farms of Tahlequah, LLC has legal title to the property located at County Road 12977, Tahlequah, Oklahoma, more specifically identified as:

SE/4 of SE/4 of SE/4 of Section 13 and NE/4 and E/2 of NW/4 and NE/4 of NE/4 of SE/4 of Section 24 all in Township 18 North, Range 22 East, and Lots 1,2,3 and 4 and the W/2 of E/2 of NW/4 and E/2 of SE/4 of NW/4 of Section 19 and the Southwest 10.93 acres of Lot 4 in Section 18, all in Township 18 North, Range 23 East of the Indian Base and Meridian.

Upon information and belief, River Farms of Tahlequah, LLC systematically applies fertilizers and other chemicals to the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then River Farms of Tahlequah, LLC's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

163. Third Party Defendants, Phillip Dewayne and Evelyn Proctor and Mark and Melissa Kelly, have legal title to the property located at County Road 07636, Colcord, Oklahoma, more specifically identified as:

E1/2 NW and the SW NE and the NE NW Se of Section 11, Township 19 North, Range 25 East, Except right of way for road, containing 130 acres, more or less.

and;

The W1/2 of NW 1/4 of NW1/4 of Section 12, Township 19 North, Range 25 East. AND the NE1/4 of NE1/4 and N1/2 of SE 1/4 of NE 1/4 of Section 11, Township 19 North, Range 25 East. AND one acre more or less out of the SW corner of the SW1/4 of SW 1/4 of SW1/4 lying and



being on the South side of the County Road in Section 1, Township 19 North, Range 25 East.

Upon information and belief, Phillip Dewayne and Evelyn Proctor and Mark and Melissa Kelly systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Phillip Dewayne and Evelyn Proctor and Mark and Melissa Kelly's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

164. Third Party Defendants, M. Wesley and Brooks P. Connor have legal title to the property located at 4630 Rd., Tahlequah, Oklahoma, more specifically identified as:

An Undivided 1/2 interest in the SW4 of the SW4 of the NW4; and the N2 of the SW4 of the NW4; and the SE4 of the SW4 of the NW4; and the NW4 of the SW4; and the W2 of the NE4 of the SW4; and the W2 of the E2 of the NE4 of the SW4; and the SW4 of the SW4 of the SW4; and that part of the SE4 of the NW4 more particularly described as Beginning 825.00 feet West of the NE/Corner of said SE4 of the NW4; thence South 71°45' East 188.00 feet; thence South 89° East 59.00 feet, more or less; thence North 79°05' East 37.00 feet, more or less; thence South 28°32' East 74.00 feet, more or less; thence South 558.00 feet, more or less, thence West 859.00 feet, more or less, to a point on the West line of said SE4 of the NW4, said point being 695.00 feet, more or less, South of the NW/Corner thereof; thence South 130.00 feet, more or less; thence Southeasterly on a straight line to a point on the South line of said SE4 of the NW4, said point being 330.00 feet, more or less, West of the SE/Corner thereof; thence 990.00 feet West to the SW/Corner of said SE4 of the NW4; thence North 1320.00 feet, more or less, to the NW/Corner of said SE4 of the NW4; and thence East 495.00 feet, more or less, to the

point of beginning, all being situate in Section 11, Township 16 North, Range 22 EIM, according to the official U.S. Government Survey thereof; and;

A tract of land lying in and being a part of the SE/4 of the NW/4 of Section 11, Township 16 North, Range 22 East of the Indian Base Meridian, Cherokee County, Oklahoma; more particularly described as: Beginning at a point 825 feet West of the NE/Corner of the SE/4 of the NW/4 of said Section 11; said point being a U.S.C.E. Brass cap on the U.S. Army Corps of Engineers Boundary Line; thence S88°35'30"E along USCE Boundary Line a distance of 59.00 feet; thence N79°29'30"E along U.S.C.E. Boundary Line distance of 37.00 feet; thence S72°05'30"E along U.S.C.E. Boundary Line a distance of 60.00 feet; thence S28°07'30"E along U.S.C.E. Boundary Line a distance of 74.00 feet; thence S0°24'30"E along U.S.C.E. Boundary Line a distance of 89.30 feet; thence S80°50'09"W a distance of 182.54 feet; thence N01°53'22"W a distance of 196.89 feet to the Point of Beginning. Tract contains 0.729 acres, more or less.

and;

The SW4 of the SW4 of the NW4 and the N2 of the SW4 of the NW4 and the SE4 of the SW4 of the NW4 and the NW4 of the SW4, and the W2 of the NE4 of the SW4 and the W2 of the E2 of the NE4 of the SW4 and the SW4 of the SW4 of the SW4 and that part of the SE4 of the NW4 more particularly described as beginning 825.0 feet west of the NE/Corner of said SE4 of the NW4; thence S71°45'E 188.00 feet; thence S89°E 59.00 feet, more or less; thence N79°05'E 37.00 feet, more or less; thence S72°30'E 60.00 feet, more or less; thence S28°32'E 74.00 feet, more or less; thence South 558.00 feet, more or less; thence West 859.00 feet, more or less, to a point on the West line of said SE4 of the NW4, said point being 695.00 feet, more or less, South of the NW/Corner thereof; thence South 130.00 feet, more or less; thence Southeasterly on a straight line to a point on the South line of said SE4 of the NW4, said point being 330.00 feet, more or less, west of the SE/Corner thereof; thence 990.00 feet West to the SW/Corner of said SE4 of the NW4; thence North 1320.00 feet, more or less, to the Northwest corner of said SE4 of the NW4; thence East 495.00 feet, more or less, to the point of beginning, all being situate in Section 11, Township 16 North, Range 22 East of the Indian Meridian, according to the official U.S. Government survey thereof, Cherokee County, Oklahoma. Less and Except: A tract of land lying in and being a part of the SE4 of the NW4 of Section 11, Township 16 North, Range 22 East of the Indian Base and Meridian, Cherokee County, Oklahoma; more particularly described as: commencing at a point 825.00 feet West of the NE/Corner of the SE4 of the NW4 of Section 11, thence S71°45'E a distance of 188.00 feet to the true point of beginning; said point being a U.S. Army Corps of Engineers Brass Cap on the US Army Corps of Engineers Boundary Line; thence S88°35'30"E along U.S.C.E Boundary Line a distance of 59.00 feet; thence N79°29'30"E

along the U.S.C.E Boundary Line a distance of 37.00 feet; thence S72°05'30"E along the U.S.C.E. Boundary line a distance of 60.00 feet; thence S28°07'30"E along U.S.C.E. Boundary Line a distance of 74.00 feet; thence S0°24'30"E along U.S.C.E. Boundary Line a distance of 74.00 feet; thence S0°24'30"E along U.S.C.E. Boundary Line a distance of 89.30 feet; thence S80°50'09"W a distance of 182.54 feet; thence N01°53'22"W a distance of 196.86 feet to the true point of beginning.

Upon information and belief, M. Wesley and Brooks P. Connor systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then M. Wesley and Brooks P. Connor's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

165. Third Party Defendant, Verlie B. Secratt as Trustee of the Verlie Berniece Secratt Revocable Trust has legal title to the property located at 14269 N. 569 Rd, Proctor, Oklahoma, more specifically identified as:

The Southwest Diagonal one-half of the SE4 of SE4 of Section 5, Township 17 North, Range 23 East, Cherokee County, Oklahoma. And All that part of the SE4 of the SE4 lying south and west of a certain slough in Section 5, Township 17 North, Range 23 East, Cherokee County, Oklahoma.

And;

The E2 of the NE4 of Section 8, Township 17 North, Range 23 East, Cherokee County, Oklahoma, LESS AND EXCEPT: All that part of the South 510.00 feet of the SE4 of NE4 of NE4 of said Section 8, lying East of the centerline of existing County Road. Proposed Access easement: All that part of the West 20.0 feet of the NE4 of SE4 of NE4 of said Section 8, lying North of the Centerline of Existing County Road. And the N2 of the NE4 of the SE4 of Section 8, Township 17 North, Range 23 East, Cherokee County, Oklahoma, LESS AND EXCEPT: All that part of

the NW4 of NE4 of SE4 of said Section 8, lying South and West of the Center of the Illinois River. And the W2 of the W2 of the SW4 of the NW4 of Section 9, Township 17 North, Range 23 East, Cherokee County, Oklahoma, LESS AND EXCEPT: All that part of the NW4 of SW4 of NW4 of Section 9, lying South of the existing County Road and Lying West of the Existing County Road. And The West 170.0 feet of the NW4 of the SW4 of the NW4 lying South of the Existing County Road and lying West of the Existing County Road of Section 9, Township 17 North, Range 23 East, Cherokee County, Oklahoma.

Upon information and belief, the Verlie B. Secratt Revocable Trust permits cattle to graze and deposit manure on the above referenced property which is within the IRW. Additionally, the Verlie B. Secratt Revocable Trust systematically applies fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then the Verlie B. Secratt Trust's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

166. Third Party Defendants, James D. and Susan Morrison have legal title to the property located at RR1, Box 278, Colcord, Oklahoma, more specifically identified as:

147:217:S1/2 NE1/4 SW1/4; N1/2 NW1/4 SE1/4; W1/2 W1/2 NE1/4; NE1/4 NW1/4 NE1/4; SE1/4 SW1/2 NE1/4; N1/2 N1/2 SW1/4; S1/2 NW1/4; S1/2 N1/2 NW 1/4; NE1/2 NE1/4 NW1/4; SW 1/4 SE1/4 of Section 14; SW1/4 NW1/4 SE1/2; N1/2 SW1/4 SE1/4; NW1/4 SE1/4 SE1/4; and all that part of SE1/4 SW1/2 NE1/4 lying South and East of Flint Creek; and all the SE1/4 NE1/4 of Section 15, exceptthat [sic.] part lying North and West of the County Road as now located, containing in said exception 13 acres, more or less; also N1/2 N1/2 SE1/4, except beginning at a point 312 feet West of SE corner of SE1/4 SW1/2 NW1/2 at point of intersection of road with Flint Creek, thence following the loop

in Flint Creek 13° West a distance of 400 feet, thence along the loop of Flint Creek in a general westerly direction 152 feet, thence along said loop in a northwesterly direction North 45° West to intersection of the loop in said Flint Creek with the North boundary of N1/2 NW1/4 SE1/4 a distance of 554 feet, thence East along the North boundary of said 20 acre tract a distance of 700 feet to point of beginning, said exceptions containing 4 acres, more or less, in Section 15, all of said lands being in Township 20 North, Range 25 East, containing in all 417 acres, more or less;

and;

NE1/4 SW1/4 NE1/4 and SE1/4 NW1/4 NE1/4 of Section 14, Township 20 North, Range 25 East, subject to existing easements.

Upon information and belief, James D. and Susan Morrison permit cattle and horses to graze and deposit manure on the above referenced property which is within the IRW. Additionally, James D. and Susan Morrison systematically apply fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then James D. and Susan Morrison's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

167. Third Party Defendant, Kenneth E. Davis has legal title to the property located at Road 761, Westville, Oklahoma, more specifically identified as:

All that part of the West 10 acres of Lot 2, Section 6, Township 16 North, Range 26 East lying and being East of the County Road as such county road is located on the date of this instrument. And additionally: Lot 1 and E 9.55 acres of Lot 2 and NE 10 acres of Lot 7 and the East 20 acres of Lot 8 of Section 6, Township 16 North, Range 26 East; and the SE NW and SW SW SE and N½ SW SE of Section 31, Township 17 North, Range 26 East, all in regard to any interest grantor may have acquired by reason of a certain quiet title proceeding in the District Court of Adair County, Oklahoma, specifically those proceedings reflected in Case No. C-81-154

pursued before said court.

and;

The SW/4 of SW/4 of Section 31, Township 17 North, Range 26 East, and the NW/4 of SW/4 of NE/4 and S/2 of SW/4 of NE/4 and all of that part of the NE/4 of NW/4 of SE/4 lying South and West of Baron Creek, and the SE/4 of NW/4 of SE/4 and NW/4 of NW/4 of SE/4 and SW/4 of NE/4 of SE/4 and E/2 of SE/4 of SE/4 of Section 36, Township 17 North, Range 25 East, containing 130 acres more or less.

and;

The SE/4 of SW/4 of NE/4 and N/2 of SW/4 and N/2 of NW/4 of SE/4 and SW/4 of SW/4 of NW/4 and S/2 of SE/4 of NE/4 and SW/4 of NW/4 of SE/4 of Section 31, Township 17 North, Range 26 East, containing 150 acres more or less, according to the U.S. Survey thereof.

and;

The West Half of Lot Four (4) and West Half of Lot Five (5) and Northwest Quarter of Lot Twelve (12) of Section 5, Township 16 North, Range 26 East, containing Forty (40) acres more or less.

and;

All of the 19.09 acres of Lot One (1); the East 9.55 acres of Lot Two (2); the Northeast (NE) 10.00 acres of Lot Seven (7) and the East 20.00 acres of Lot Eight (8), all in Section 6, Township 16 North, Range 26 East of the Indian Base and Meridian, Adair County, State of Oklahoma.

and;

The North Half (N/2) of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4); the Southwest Quarter (SW/4) of the Southwest Quarter (SW/4) of the Southeast Quarter (SE/4); and the Southeast Quarter (SE/4) of the Southwest Quarter (SW/4), all in Section Thirty-one (31), Township 17 North, Range 26 East of the Indian Base and Meridian, Adair County, State of Oklahoma, less and except that portion of the N/2 SE/4 SW/4 and the N/2 SW/4 SE/4 lying north, north and west, or north and east of the centerline (median) of the water flow of the Baron (Barren) Fork Creek as such centerline (median) is established during low water periods.

Upon information and belief, Kenneth E. Davis permits horses to graze and deposit manure on the above referenced property which is within the IRW. Additionally, Kenneth E. Davis systematically applies fertilizers and other chemicals on the property for hay production within the IRW. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Kenneth E.



Davis' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to his liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

168. Third Party Defendant, Tumbling T Bar LLC is a limited liability company under the laws of Oklahoma, and it owns and operates property located at 10733 N. 569 Rd., Proctor, Oklahoma 74457, more specifically identified as:

The W2 SW4, less that part of the SE4 SW4 SW4 lying east of the Illinois River, in Section 24, Township 18 North, Range 22 East, Cherokee County, State of Oklahoma.

2. A tract of land in the E2 SW4 NW4 of Section 24, Township 18 North, Range 22 East, more particularly described as follows, to-wit: Beginning at a Point 355.0 feet East of the SW/Corner of the E2 SW4 NW4 of said Section 24; thence Northwesterly in a straight line to a Point 200.0 feet East and 151.5 feet North of the NW/Corner of the SE4 SW4 NW4; thence in a Northwesterly direction on a straight line to the NW/Corner of the NE4 SW4 NW4; thence East a distance of 660.0 feet; thence South a distance of 1320.0 feet; thence West a distance of 305.0 feet to the Point of Beginning, Cherokee County, State of Oklahoma; and All that part of the E2 NW4 NW4 of Section 24, Township 18 North, Range 22 East, lying South and East of Highway No. 10, according to the United States Survey thereof, Cherokee County, State of Oklahoma.

3. The SW4 SW4 SE4 of Section 24, Township 18 North, Range 22 East, AND The NE4 SW4 and the N2 SE4 SW4 and the SE4 SW4 SE4 and the S2 SE4 SE4 and the NE4 SE4 SE4 of Section 24, Township 18 North, Range 22 East of the Indian Base and Meridian, according to the United States Survey thereof, Cherokee County, State of Oklahoma; LESS AND EXCEPT The Northeast half of the following described land: All that part of the SE4 of Section 24, Township 18 North, Range 22 East of the Indian Base and Meridian lying South and East of the county road, Cherokee County, State of Oklahoma.

4. Lots 1 & 2, Block 5, KENWOOD HILLS ADDITION, a subdivision of a part of the SE4 of Section 4, Township 16 North, Range 22 East, City of Tahlequah, Cherokee County, State of Oklahoma.

5. The NW4 NE4 SE4 and the S2 NE4 SE4 and the NW4 SE4 SE4 and the N2 SW4 SE4 and the NW4 SE4 of Section 24, Township 18 North, Range 22 EIM, containing 100 acres, more or less, according to the U.S. government Survey thereof, Cherokee County, State of Oklahoma all of the foregoing LESS AND EXCEPT a tract of land described as follows: Commencing at the SW/Corner of the SE4 of Section 24, Township 18 North, Range 22 East, Cherokee County, Oklahoma; thence N0°02'W on



West line SE/4 a distance of 1473.46 feet; thence N89°58'00"E a distance of 430.83 feet to the POINT OF BEGINNING; thence N10°43'14"E, a distance of 281.00 feet; thence S80°00'52"E, a distance of 158.60 feet; thence S10°54'06"W, a distance of 284.28 feet; thence N78°49'39"W, a distance of 157.70 feet to the POINT OF BEGINNING; said described tract containing 1.0 Acres, more or less.

Tumbling T. Bar permits horses to graze and deposit manure on the above referenced property which is within the IRW. Additionally, Tumbling T. Bar systematically applies fertilizers and other chemicals on the property for hay production within the IRW. Moreover, Tumbling T. Bar has failed to maintain proper riparian buffers along the Illinois River which in turn has created serious and systematic bank erosion. Upon information and belief, the bank erosion on the property has resulted in the loss of stream bank. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Tumbling T. Bar, LLC's conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to its liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

169. Third Party Defendants, Eugene Dill and Doris Mares own property located at 32054 Hwy 82, Cookson, Oklahoma, more specifically identified as:

A tract of land located in the SE4 of Section 1 and the NE4 of Section 12, Township 14 North, Range 22 East, Commencing at a point 331.72 feet North and 120.48 feet East of the NE/Corner of the NW4 of NW4 of NE4 of Section 12, Township 14 North, Range 22 East, Cherokee County, Oklahoma; thence Southeasterly along the East right of way of S.H. # 82 with a curve to the left of 6 00'00" for a distance of 340.73 feet; thence N89 29'06" E for a distance of 91.30 feet to the point of beginning; thence S7 18'00"E, for a distance of 93.80 feet; thence S77 42'00" W, for a distance of 47.00 feet; thence Southeasterly along the East right of way of

S.H. #82 with a curve to the left of 6 00'00" for a distance of 249.35 feet; thence S47 09'23" E, for a distance of 57.80 feet; thence N43 23'01"E, for a distance of 439.32 feet; thence S51 01'43" E, for a distance of 140.53 feet; thence N 52 07'22" E, for a distance of 158.54 feet; thence N2 09'00" E, for a distance of 327.19 feet; thence N89 29'51" W, for a distance of 534.04 feet; thence S29 05'00" W for a distance of 371.80 feet to the point of beginning, according to the U.S. Survey thereof.

Upon information and belief, Eugene Dill and Doris Mares own and operate the Cookson County Store and Cabins on the property identified above. The Cookson County Store and Cabins' operations include but are not limited to a convenience store, cabin, sixteen unit motel near and a private sewage system. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then Eugene Dill and Doris Mares and Cookson County Store Cabins' conduct and operations, which results in the release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

170. Third Party Defendants John and/or Jane Doe Defendants 1 through 150 are all individuals, corporations, limited liability corporations, limited partnerships or other entities which own or operate septic tank systems, agricultural operations including livestock operations and fertilization and application of chemicals to crops and pastures, gravel mining, nurseries, and other operations. The operations and activities described above have and continue to result in the release of phosphorus and other constituents into the IRW. Accordingly, if the conduct of the Third Party Plaintiffs gives rise to liability to the Plaintiffs under their claims set forth in the Complaint (which is denied), then John and Jane Doe Defendants 1 through 150's conduct and operations, which results in the

release of some or all of the same constituents into the IRW, give rise to their liability to Third Party Plaintiffs under the theories of contribution and/or indemnity.

#### **IV. JURISDICTION AND VENUE**

171. This court has subject matter jurisdiction over the claims set forth herein to the extent that the Court has jurisdiction over the claims and parties identified in the Complaint. The damages claimed by the Plaintiffs in the Complaint are alleged to have been caused by the Third Party Plaintiffs' activities within the Illinois River Watershed as defined by the Plaintiffs in Paragraphs No. 22-23 of the Complaint. Third Party Plaintiffs likewise assert that the acts and omissions of the Third Party Defendants occurred in the IRW within the State of Oklahoma. Moreover, Plaintiffs have alleged claims under CERCLA and SWDA seeking abatement, assessment damages, remediation, damages for loss value and restoration of the natural resource, pursuant to 28 U.S.C. § 1331, 42 U.S.C. § 9613 (b) and 42 U.S.C. § 6972(a). Additionally, this Court has supplemental jurisdiction over this matter and any claims for contribution from other potentially responsible parties under CERCLA and SWDA, and state law claims for contribution and indemnification pursuant to 28 U.S.C. § 1367.

172. Personal jurisdiction is properly exercised over the Third Party Defendants because the activities engaged in by Third Party Defendants are occurring or have occurred on property located within the State of Oklahoma. *See* Fed. R. Civ. P. 4(e), (k).

173. A substantial part of the activities which give rise to the third party claims alleged herein occurred in the Northern District of Oklahoma, and a substantial part of the Illinois River Watershed is situated in the Northern District of Oklahoma. Therefore,

venue is proper in this Court pursuant to 28 U.S.C. § 1391 (b).<sup>2</sup>

## **V. STATEMENTS OF FACT**

### **A. The Underlying Lawsuit**

174. Plaintiffs filed their Complaint against Third Party Plaintiffs on June 13, 2005. On August 18, 2005, Plaintiffs filed their Amended Complaint against Third Party Plaintiffs, a copy of which is attached hereto as Ex. “A.”

175. Plaintiffs purport to bring their claims as “Attorney General of the State of Oklahoma and...Trustee for Natural Resources of the State of Oklahoma....” (Am. Cmplt. pg. 1).

176. Plaintiffs allege that the Third Party Plaintiffs’ operations in the IRW have “caused injury to the IRW, including the biota, lands, waters and sediments therein.”

177. Plaintiffs allege the “1,069,530-acre Illinois River Watershed (“IRW”) straddles the Oklahoma-Arkansas border. The approximately 576,030 acres of the IRW that are located in Oklahoma include portions of Delaware, Adair, Cherokee and Sequoyah counties...as well as its major tributaries, the Baron (a/k/a Barren) Fork River, the Caney Creek and the Flint Creek.” (Am. Cmplt. at ¶¶ 22, 23).

178. Plaintiffs allege the “Illinois River feeds into the 12,900 acre Tenkiller Ferry Lake....” (Am. Cmplt. at ¶ 26).

179. Plaintiffs allege that “[i]n recent years these resources have been and are continuing to be polluted, degraded, and their uses have been and are continuing to be injured and impaired”, and that “[t]his pollution of and injury to the IRW, including the biota, lands, waters and sediments therein, are indivisible,” which Third Party Plaintiffs

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<sup>2</sup> Certain of the Third Party Plaintiffs have asserted that the venue of the underlying action is more properly had in the United States District Court for the Eastern District of Oklahoma. These Third Party Plaintiffs make the allegations in this Third Party Complaint without waiver of this objection.

have denied and continue to deny. [Am. Cmplt. at ¶¶ 29, 30].

180. Plaintiffs allege that Third Party Plaintiffs “are responsible for this pollution of, as well as the degradation of, impairment of and injury to the IRW, including biota, lands, waters and sediments therein”, by virtue of their independent contract farmers’ agriculture practices. Those alleged agriculture practices include the land application of poultry litter as a fertilizer “in excess of any agronomic need,” which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶ 31, 50]

181. Plaintiffs allege that any application of poultry litter in excess of agronomic need “constitutes waste disposal rather than any normal or appropriate application of fertilizer,” which Third Party Plaintiffs have denied and continue to deny [Am. Cmplt. at ¶ 50].

182. Plaintiffs allege these alleged “waste disposal practices lead to run-off and release of large quantities of phosphorous and other hazardous substances, pollutants and contaminants in the poultry waste onto and from the fields and into the waters of the IRW,” and “large quantities of phosphorous and other hazardous substances, pollutants and contaminants to accumulate in soils,” which lead to continued and future run-off into the waters of the IRW, which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶¶ 52, 53]

183. Plaintiffs allege that poultry litter contains “a number of constituents that can and do cause harm to the environment and pose human health hazards.” The constituents alleged in by Plaintiffs include:

- a. phosphorus/phosphorus compounds;
- b. nitrogen/nitrogen compounds;

- c. arsenic/arsenic compounds;
- d. zinc/zinc compounds;
- e. copper/copper compounds;
- f. hormones; and/or
- g. microbial pathogens.

184. Plaintiffs allege that “[t]he lands and waters in the IRW...contain elevated levels of a number of constituents.” [Am. Cmplt. at ¶¶ 58, 59].

185. Plaintiffs assert that the nutrients and metal compounds listed above in Paragraphs No. 183 are hazardous substances under CERCLA, which Third Party Plaintiffs deny. [Am. Cmplt. at ¶¶ 61, 62].

186. Plaintiffs assert that “poultry waste is a solid and/or hazardous waste under the SWDA,” which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶ 92]

187. Plaintiffs allege that each of the Third Party Plaintiffs “has in the past been or is now a generator of poultry waste and/or has in the past been or is now an owner or operator of a treatment, storage or disposal facility for poultry waste,” which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶ 93].

188. Plaintiffs allege that each of the Third Party Plaintiffs is “a ‘person’ as defined by SWDA who has contributed to and/or is contributing to the past or present handling, storage, treatment, transportation or disposal of poultry waste in the IRW...,” which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶ 94].

189. Plaintiffs allege that “[a]n imminent and substantial endangerment to health or the environment may be presented and is in fact presented as a direct and

proximate result of each of [the Third Party Plaintiffs'] respective contribution to the handling, storage, treatment, transportation or disposal of poultry waste in the IRW...,” which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶ 95].

190. Plaintiffs claim that Third Party Plaintiffs have “intentionally” created a private and public nuisance under both Oklahoma and Federal law “[a]s a result of their poultry waste disposal practices,” which include the “placement/contribution to the placement of poultry wastes where they are likely to cause pollution,” which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶¶ 99-104, 110-114].

191. Plaintiffs have also claimed that Third Party Plaintiffs’ activities as alleged in the Complaint constitute “an actual and physical invasion of and interference with the State of Oklahoma’s property interests in the IRW...,” which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶¶ 120-122].

192. Plaintiffs allege that Third Party Plaintiffs have violated 27A O.S. § 2-6-105, 2 O.S. § 2-18.1 “by and through their wrongful poultry waste disposal practices...,” and thus, Plaintiffs state they are entitled to civil penalties for each respective violation pursuant to 27A O.S. § 2-3-504 and 2 O.S. § 2-16, which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶¶ 129-132].

193. Plaintiffs further allege that Third Party Plaintiffs have violated the Animal Waste Management Plan criteria set forth in Oklahoma Administrative Code, § 35:17-3-14 by their “wrongful poultry waste disposal practices...,” and thus, Plaintiffs state they are entitled to civil penalties pursuant to 2 O.S. § 9-212, which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶¶ 138, 139].



194. Plaintiffs claim by engaging “in improper poultry waste disposal practices,” the Third Party Plaintiffs have “avoided the costs of properly managing and disposing of their poultry waste” to their economic benefit and at the expense of the Plaintiffs’ rights, and thus, Third Party Plaintiffs have had a benefit conferred upon them by Plaintiffs. Plaintiffs claim that this is an unjust enrichment and seek “disgorgement of all gains...realized in consequence of their wrongdoing,” which Third Party Plaintiffs have denied and continue to deny. [Am. Cmplt. at ¶¶ 141-147].

195. Pursuant to their claims, Plaintiffs are seeking all past monetary damages, future damages, permanent injunctive relief, declaratory judgment, restitution, exemplary damages, statutory penalties, pre-judgment interest, attorney’s fees and costs (including but not limited to court costs, expert and consultants costs, and litigation and investigative expenses). [Am. Cmplt. at Prayer for Relief ¶¶ 1-8].

**B. General Allegations Regarding Third Party Defendants**

196. Third Party Plaintiffs incorporate Paragraphs 1 through 195 as though fully set forth herein.

197. Third Party Plaintiffs have denied and continue to deny all of the Plaintiffs’ allegations of wrongdoing, and deny that they are responsible for or have contributed to any purported pollution in the IRW.

198. On April 8, 2005, Third Party Plaintiffs served Third Party Defendants, City of Tahlequah, City of Westville and City of Watts, with their written notice of Third Party Plaintiffs’ claims against them based upon Plaintiffs’ claims pursuant to the Oklahoma Governmental Tort Claims Act, 51 O.S. § 156. [Governmental Tort Claim Notices, attached hereto as Exhibit “3”].

199. On May 3, 2005, Third Party Plaintiffs received a letter from Third Party Defendant, City of Tahlequah denying their claims. Third Party Defendants, City of Westville and City of Watts, failed to either approve or deny Third Party Plaintiffs' claims within ninety (90) days of its submission; thus, Third Party Plaintiffs' contribution and/or claims have been deemed denied pursuant to 51 O.S. § 157. [City of Tahlequah Denial letter, attached hereto as Exhibit "4"]

200. Third Party Defendants, including the John and Jane Doe Third Party Defendants, have and continue to engage in operations and/or activities within the IRW, more specifically identified in Paragraphs 19 through 170, which include but are not limited to discharging sewage and wastewater, applying of organic and commercial fertilizer and chemicals, failing to properly maintain and prevent erosion of riparian lands, mining of gravel and dirt within the river and creek beds, maintaining livestock operations, permitting livestock access to the waters and riparian buffers within the IRW, and engaging in other activities which result in the release of some or all of the constituents alleged in the Complaint into the IRW as defined by Plaintiffs. [Am. Cmplt. at ¶¶58, 61-64].

201. To the extent the Court finds the natural resources of the IRW, including the biota, lands, waters and sediments have been adversely impacted as alleged by Plaintiffs in their Complaint, such adverse impacts have been caused or contributed to by the acts and omissions of the Third Party Defendants which have resulted in the release of the same or similar constituents as those allegedly contained in poultry litter into the IRW, as set forth in Paragraphs 19 through 170 above.

202. As stated in their Complaint, Plaintiffs allege that Third Party Plaintiffs by applying poultry litter as a fertilizer to the lands within the IRW have caused and are causing “an unreasonable invasion of, interference with, impairment to, inconvenience to, annoyance to and injury to the State of Oklahoma and the public’s beneficial use and enjoyment of the IRW, including the biota, lands, waters and sediments therein.” [Am. Cmplt. at ¶¶ 100, 111].

203. Although Third Party Plaintiffs have denied and continue to deny all of the allegations of wrongdoing as alleged by Plaintiffs, should Third Party Plaintiffs be found liable to Plaintiffs and Plaintiffs recover damages or injunctive relief pursuant to any of Plaintiffs’ claims for nuisance, trespass, unjust enrichment, or violations of 27A O.S. § 2-6-105 and 2 O.S. § 2-18.1, and OAC, § 35:17-3-14, Third Party Plaintiffs assert that they are entitled to contribution pursuant to 12 O.S. § 832 and/or indemnification from Third Party Defendants based upon their operations and/or activities within the IRW.

204. As stated in the Complaint, Plaintiffs allege that “[t]he IRW, including the lands, waters and sediments therein, constitutes a ‘site or area where a hazardous substance...has been deposited, stored, disposed of, or place, otherwise come to be located;’ and, as such, constitutes a ‘facility’ within the meaning of CERCLA, 42 U.S.C. § 9601(9).” [Am. Cmplt. at ¶¶ 72, 81].

205. While Third Party Plaintiffs deny and continue to deny the allegations of wrongdoing contained within the Complaint, Third Party Plaintiffs state that should the Court find that the IRW, including the biota, lands, waters and sediments therein constitute a “facility” under CERCLA, 42 U.S.C. § 9601(9), then the IRW is also a “facility” as to the Third Party Defendants’ operations and/or activities within the IRW.

Moreover, if the Court finds that the independent contract farmers' farms constitute a "facility" under CERCLA, 42 U.S.C. § 9601 (9) simply by virtue of the fact that the land application of poultry litter has occurred on that independent contract farmers' farm (which is denied), then following the same logic, the properties upon which the Third Party Defendants' operations and activities occur would also constitute a "facility" under CERCLA.

206. As stated in the Complaint, Plaintiffs allege that each of the Third Party Plaintiffs "is a 'person,' and thus, a potentially responsible party within the meaning of CERCLA, 42 U.S.C. § 9601(21)." If the Court finds that Third Party Plaintiffs based upon the activities of the independent contract farmers are "persons" within the meaning of CERCLA, 42 U.S.C. § 9601(21), then Third Party Defendants are also "persons" under CERCLA in that they, individually and collectively, engage in operations and/or activities within the IRW that have and continue to result in the release of phosphorous and some or all of the constituents alleged in the Complaint into the IRW.

207. As stated in the Complaint, Plaintiffs allege that each of the Third Party Plaintiffs are covered "within the meaning of CERCLA, 42 U.S.C. § 9607(a), in that they, individually and collectively, have arranged for disposal of their poultry waste which contains hazardous substances...which has been released to and within the IRW....," and that they "individually and collectively, have been owners and/or operators during the time their poultry waste containing these hazardous substances was generated and disposed of and released into the IRW...." If the Court finds that Third Party Plaintiffs are potentially responsible parties under CERCLA, 42 U.S. § 9607(a), then Third Party Defendants are also potentially responsible parties under CERCLA in that they,

individually or collectively, engage in operations and/or activities within the IRW that have and continue to result in the release of phosphorous and some or all of the constituents alleged in the Complaint into the IRW. [Am. Cmplt. at ¶¶ 74, 75, 83 and 84].

208. Plaintiffs allege in the Complaint that by and through Third Party Plaintiffs' activities and operations, "'hazardous substances' within the meaning of CERCLA, 42 U.S.C. § 9601(14)...were disposed of in the IRW, including the lands, waters and sediments therein, resulting in 'releases' and/or 'threatened releases' of hazardous substances within the meaning of CERCLA, 42 U.S.C. § 9601 (22). In the event, the Court finds that the constituent elements and/or compounds within poultry litter, as outlined in Plaintiffs' Complaint at Paragraphs No. 58, 61, 62 and 80, are "hazardous substance" within the meaning of CERCLA, then Third Party Defendant's activities and/or operations within the IRW which result in the release or threatened release of some or all of the same constituents as poultry litter would, likewise, be considered a release of a "hazardous substance" under CERCLA into the IRW. [Am. Cmplt. at ¶¶ 72, 80].

209. While continuing to deny the allegations of wrongdoing in the Complaint, in the event that Third Party Plaintiffs are found liable under Plaintiffs' CERCLA cost recovery claims for the alleged release of "hazardous substances," then Third Party Defendants should, likewise, be liable for their activities and/or operations within the IRW which result in the release of the same alleged "hazardous substances" into the IRW.

210. Although Third Party Plaintiffs have denied and continue to deny all of the allegations of wrongdoing as alleged by Plaintiffs, should Third Party Plaintiffs be found liable under CERCLA § 107 for Plaintiffs' cost recovery claims, and be ordered to pay response costs, which include, but are not limited to costs of monitoring, assessing and evaluation of the waters, wildlife and biota in the IRW, to the Plaintiffs, then Third Party Plaintiffs are entitled to contribution pursuant to CERCLA, 42 U.S.C. § 9613(f) from Third Party Defendants because Third Party Defendants' activities and/or operations within the IRW have resulted in the release of some, if not all of the same constituents alleged by the Plaintiffs to be "hazardous substances." Thus, as a result of their activities and/or operations, if Third Party Plaintiffs are required to pay any damages to Plaintiffs, then Third Party Defendants should be required to pay for their respective shares of any response costs adjudged against the Third Party Plaintiffs.

211. Although Third Party Plaintiffs have denied and continue to deny all of the allegations of wrongdoing as alleged by Plaintiffs, should Third Party Plaintiffs be found liable to Plaintiffs under CERCLA § 107, and a declaratory judgment be entered holding Third Party Plaintiffs liable for all future necessary responses costs, then Third Party Plaintiffs are entitled to a declaratory judgment against Third Party Defendants holding them similarly liable for their respective shares of any future response costs due to their activities and/or operations within the IRW, which have resulted in the release of some, if not all, of the same constituents alleged by the Plaintiffs as "hazardous substances." Furthermore, if Third Party Plaintiffs are required to pay any future necessary response costs under CERCLA § 107, pursuant to any declaratory judgment entered by the Court, then Third Party Defendants should, likewise, be required to pay for their respective

shares of any future necessary response costs adjudged against the Third Party Plaintiffs.

212. Plaintiffs also seek natural resource damages pursuant to 42 U.S.C. § 9607. In the Complaint, Plaintiffs allege that “[t]he Oklahoma Secretary of the Environment, acting on behalf of the State of Oklahoma, is the designated CERCLA trustee for ‘natural resources’ in, belonging to, managed by, held in trust by, appertaining to or otherwise controlled by the State of Oklahoma,” and that as trustee, the Oklahoma Secretary of the Environment “shall assess damages to natural resources for purposes of CERCLA for those natural resources under their trusteeship.” [Am. Cmplt. at ¶ 79].

213. Plaintiffs claim that “[a]s a result of the release of hazardous substances...into the IRW...there has been injury to, destruction of, and loss of natural resources in the IRW, including the land, fish, wildlife, biota, air, water, ground water, drinking water supplies and all other such resources therein...” According to Plaintiffs’ allegations, these alleged injuries are “continuing” in nature, and Plaintiffs have “incurred reasonable and necessary costs to assess and evaluate this injury and loss of natural resources.” [Am. Cmplt. at ¶¶ 85-87].

214. For their alleged natural resource damages claim under CERCLA, 42 U.S.C. § 9607 (a), Plaintiffs seek “(a) the cost to restore, replace, or acquire the equivalent of such natural resources; (b) the compensable value of lost services resulting from the injury to such natural resources; and (c) the reasonable cost of assessing injury to the natural resources and the resulting damages.” [Am. Cmplt. at ¶ 89].

215. While continuing to deny the allegations of wrongdoing in the Complaint, in the event that Third Party Plaintiffs are found liable under Plaintiffs’ CERCLA § 107 natural resource damages claim for the alleged release of “hazardous substances,” then



Third Party Defendants should, likewise, be liable for their activities and/or operations within the IRW which resulted in the release of the same alleged “hazardous substances” into the IRW.

216. Although Third Party Plaintiffs have denied and continue to deny all of the allegations of wrongdoing as alleged by Plaintiffs, should Third Party Plaintiffs be found liable under CERCLA § 107, and be ordered to pay natural resource damages to Plaintiffs, which could include, but not be limited to “(a) the cost to restore, replace, or acquire the equivalent of such natural resources; (b) the compensable value of lost services resulting from the injury to such natural resources; and (c) the reasonable cost of assessing injury to the natural resources and the resulting damages,” then Third Party Plaintiffs are entitled to contribution pursuant to CERCLA, 42 U.S.C. § 9613(f) from Third Party Defendants for their respective share of those damages because their activities and/or operations within the IRW have resulted in the release of some, if not all, of the same constituents alleged by the Plaintiffs as “hazardous substances” for their respective share of those damages.

217. On or about April 8, 2005, in accordance with the applicable federal and state statutes, including but not limited to 42 U.S.C. § 6972 (b)(2)(A), Third Party Plaintiffs, Peterson Farms, Inc.; Tyson Foods, Inc.; Tyson Poultry, Inc.; Tyson Chicken, Inc.; Cobb-Vantress, Inc.; Simmons Foods, Inc.; George’s, Inc.; George’s Farms, Inc.; and Willow Brook Foods, Inc. served their Notice of Intent to File Third Party Claims under the Solid Waste Disposal Act (“SWDA”), by either personal service, registered and/or regular mail, properly addressed and postage prepaid to the following Third Party Defendants, as well as the appropriate federal and state officials to the following: City of

Tahlequah; City of Westville; City of Watts; Sequoyah Fuels Corporation; Greenleaf Nursery Co., Inc., Park Hill Plants & Trees, Inc.; Cherry Springs Golf Club, Inc.; Tahlequah Livestock Auction, Inc.; Frates Properties; Flint Ridge Property Owners Association, Inc.; James C. Geiger for Spencer Ridge Resort; Kenneth D. and Jane T. Spencer for Spencer Ridge Resort; Ronald Lee and Linda S. Fidler; Fidler's Bend Farms & Trading Co., LLC; Illinois River Ranch Property Owners Association; Gene and Lorene Colburn; Illinois River Ranch Recreational Vehicle Property Owners Association; Marjorie A. Garman and Riverside RV Resort and Campground, LLC; Stephen R., Jennie and Brian R. Hamrick; Jack and Brenda K. Spears and Pine Valley Cabins; Arrowhead Camp; Austin L. and Leslie A. Bennett and Eagle Bluff Resort; Virginia A. and Archie R. Peyton, Jr., as Trustees of the Peyton Family Trust and Peyton's Place; War Eagle Floats, Inc.; Kevin R. and Barbara L. Kelley and Diamond Head Resort; Philip L. and Cheryl D Beaman and Falcon Floats, Inc.; Louise Squyres and MX Ranch; Clare Louis Wells; Brian R. and Mary C. Berry and Town Branch Guest Ranch; M. Wesley and Brooks P. Connor; Charles W. and Kimberlee Wilson; Robert A. and Sylvia S. Smith Trustees of the Robert A. Smith Trust; Gordon W. and Susann Clinton; Willie and Elise Tarrance; Verlie B. Secratt as Trustee of the Verlie Berniece Secratt Trust; Rickey Joe and Rita Hix; Anna Marie Sanders; Bartow and Wanda Hix; Danny E. and Carolyn Hix; John Nickle and J5 Ranch, LLC; Tumbling T Bar Ranch, LLC; Larry and Carolyn Lockwood; Illinois River Valley Nursery, Inc.; Tom Tate; Skelly Ranch, Inc.; Jerry D. and Christina Williams and Williams Dairy; Bobby and Marian Williams and Williams Dairy; Darrell & Dianna Guffey and Seldom Rest Dairy; Tim and Isabel Baker as Trustees of the Tim and Isabel Baker Trust; Haskell L. Brown; Dale E. Matthews as

Trustee of the Dale E. Matthews Trust; Jerry Wayne and Mary Joe Hare, individually and as Trustees for the Jerry Wayne Hare Revocable Trust and Mary Jo Hare Revocable Trust and Crystal Creek Ranch; Wanda L. Dotson; Charline Eddings Long; Elmo Eddings; Steve Wesley Cain; Clifton Williams and Williams Dairy; Billie D. Howard; Floyd Simmons; Farrell and Jackie Hamm; Tom Hamm; Jerry and Ann Means; Billy Simpson and Simpson Dairy; Ray Dean and Donna Doyle and Simpson Dairy; Daniel L. Parker; Ewell Van and Alice L. Earl and Pettit Bay Cabins and Grocery; Barnacle Bills Marina, LLC.; Rickey Neil and Tonya Fowler; Burnt Cabin Marina and Resort, LLC; Fin and Feather Resort, Inc.; James and Dorothy Gene Lamb and Strayhorn Landing Marina and Gene's Scuba Sales; Pine Cove Marina and Clearwater Café, Inc.; John T. Posey, Jr. Trustee of the John T. Posey Jr. Trust and Meadow Park RV Park; Veraman and Billie Davis and Snake Creek Wilderness; Elk Creek Landing and Elk Creek Resort; Flintridge Park, LLC.; Norma J. Brooks and Cookson Village and Cabins; Sixshooter Resort and Marina, Inc.; David Albert and Bobbie Ann Stratton; Bill Stewart and Dutchman's Cabins; Tom Cotton and Chicken Creek Village Store; John T. Posey and Grande Villa, Inc.; Bishop H. and Wilma F. Wadsworth and Cookson Log Cabin Motel; Mark Seratt, Trustee of the Millie Seratt Trust; One Degree Lawn Care; Big John's; Thornton Lawn & Exterminating, Inc.; Spring Hollow Feed Mill, Inc., Eagle Nursery, LLC; Kermit and Katherine Brown; Dean Wilmoth; Phillip Dewayne Proctor; Evelyn Proctor, Perry and Norma Williams; Suzanne M. Zeiders; Flint Creek Farm, LLC; The Hayes Family Limited Partnership; John T. Cripps; George Cripps; Billy D. and Norma Glenn; James Thomas and Erin Jones; Roger K. and Linda Mathis Canada; Richard Taylor; Eurma White; Baron Fork Creek Camp; Jim Bagby; Alfred E. and Carolyn S. Hembree; Kenneth

E. Davis; Ronald Allen and Colleen Brown; John E. and Virginia W. Adair, individually and as Trustees for John E. and Virginia W. Adair Family Trust; Northland Farms, LLC; Mark and Melissa Kelly; David R. and Robin L. Wofford; James D. and Susan Morrison; Carl Merseburgh; Gail B. Wilton; Ivan Marion; William D. Langley; Turf Professional; Pro Lawn Services, Inc.; David Spears and Thunderbird Resort.

218. In the Complaint, Plaintiffs allege that the Third Party Plaintiffs are responsible for the past and present handling, storage and disposal of “a solid and/or hazardous waste” that presents “an imminent and substantial endangerment to health and the environment in the IRW.” Plaintiffs' allegations are that the application of poultry litter as a fertilizer and/or soil conditioner by Third Party Plaintiffs, their independent contract farmers and other third parties who purchase poultry litter as a fertilizer and/or soil condition and apply it to their land within the IRW, presents an imminent and substantial endangerment to health and the environment. [Am. Compl. at ¶¶ 92-96].

219. Upon information and belief, the Third Party Defendants identified in Paragraph 217, above are responsible for their past and present activities and operations in the IRW, which has resulted in the release of some or all of the same constituents allegedly contained in poultry litter into the IRW. Therefore, if the Court finds that the application of poultry litter and its constituents as a fertilizer and/or soil conditioner to lands within the IRW constitutes the release of “a solid and/or hazardous waste under SWDA,” then the past and present conduct and activities of Third Party Defendants which result in the release of some or all of the same constituents as allegedly contained in poultry litter into the IRW would also constitute the release of “a solid and/or hazardous waste under SWDA.”

220. Furthermore, if the Court finds that the application of poultry litter as a fertilizer and/or soil conditioner by Third Party Plaintiffs, their independent contract farmers and other third party property owners constitutes the past and present handling, storage and disposal of “a solid and/or hazardous waste,” and further finds that Third Party Plaintiffs identified in Paragraph No. 217, above, have created an alleged imminent and substantial endangerment in the IRW under SWDA, then the Court must also find that the Third Party Defendants’ identified in Paragraph No. 217, above, activities and/or operations as defined in previously, which result in the release of some or all of the same constituents Plaintiffs allege are contained within poultry litter into the IRW, also constitute the past and present handling, storage and disposal of “a solid and/or hazardous waste,” rendering Third Party Plaintiffs liable for creating any alleged imminent and substantial endangerment in the IRW under SWDA.

221. Therefore, in the event the Court finds Third Party Plaintiffs liable under SWDA, then the Third Party Defendants identified in Paragraph No. 217, above, must also be held liable under SWDA for their activities and operations within the IRW. Moreover, if the Court issues any injunctive relief whether it be temporary or permanent against Third Party Plaintiffs, or requires them to engage in any clean-up, assessment or remediation efforts, the Third Party Defendants identified in Paragraph No. 217, above, should also be required to participate in any injunctive relief, clean-up, assessment or remediation efforts.

### **PRAYER FOR RELIEF**

WHEREFORE, in the event Plaintiffs should receive any judgment against Third Party Plaintiffs, Tyson Foods, Inc., Tyson Poultry, Inc., Tyson Chicken, Inc., Cobb-

Vantress, Inc., George's, Inc., George's Farms, Inc., Peterson Farms, Inc., Simmons Foods, Inc., and Willow Brook Foods, Inc., for damages for their alleged injuries, Third Party Plaintiffs likewise demand judgment against the Third Party Defendants on each of the claims alleged, including but not limited to the following:

(1) any injunctive relief granted against Third Party Plaintiffs, including any relief which requires Third Party Plaintiffs to remediate, abate any activity or condition, and/or pay any costs associated with assessing and quantifying the amount of remediation or natural resource damages;

(2) any liability assessed for past monetary damages including all costs and expenses;

(3) any declaratory relief granted by the Court against Third Party Plaintiffs including any liability for future damages including all costs and expenses;

(4) any restitution damages;

(5) any punitive or exemplary damages;

(6) any federal or state statutory penalties;

(7) attorneys fees and costs;

(8) prejudgment interest; and

(9) any further relief the Court deems just and appropriate.

Respectfully submitted by and on behalf of:

By s/ A. Scott McDaniel

A. Scott McDaniel (Okla. Bar No. 16460)  
Chris A. Paul (Okla. Bar No. 14416)  
Nicole M. Longwell (Okla. Bar No. 18771)  
Philip D. Hixon (Okla. Bar No. 19121)  
Martin A. Brown (Okla. Bar No. 18660)  
JOYCE, PAUL & McDANIEL, P.C.  
1717 South Boulder Ave., Suite 200  
Tulsa, Oklahoma 74119  
(918) 599-0700  
**COUNSEL FOR DEFENDANT  
PETERSON FARMS, INC.**

By s/ Stephen L. Jantzen /s A. Scott McDaniel

*(Signed copy of document bearing signature of Attorney  
is being maintained in the office of the Filing Attorney)*  
Stephen L. Jantzen (Okla. Bar No. 16247)  
Patrick M. Ryan (Okla. Bar No. 7864)  
RYAN, WHALEY & COLDIRON, P.C.  
119 N. Robinson  
900 Robinson Renaissance  
Oklahoma City, OK 73102  
(405) 239-6040  
**COUNSEL FOR DEFENDANTS TYSON FOODS, INC.,  
TYSON POULTRY, INC., TYSON CHICKEN, INC.,  
and COBB-VANTRESS, INC.**

By s/ R. Thomas Lay s/ A. Scott McDaniel

*(Signed copy of document bearing signature of Attorney  
is being maintained in the office of the Filing Attorney)*  
R. Thomas Lay (Okla. Bar No. 5297)  
KERR, IRVINE, RHODES & ABLES  
201 Robert S. Kerr Ave., Suite 600  
Oklahoma City, OK 73102  
(405) 272-9221  
**COUNSEL FOR DEFENDANT  
WILLOW BROOK FOODS, INC.**



By s/ Randall E. Rose s/ A. Scott McDaniel

*(Signed copy of document bearing signature of Attorney  
is being maintained in the office of the Filing Attorney)*

Randall E. Rose (Okla. Bar No. 7753)

George Owens (Okla. Bar No. 6833)

The Owens Law Firm, P.C.

234 West 13<sup>th</sup> Street

Tulsa, Oklahoma 74119

(918) 587-0021

(918) 587-6111 Fax

**COUNSEL FOR DEFENDANT**

**GEORGE's, INC and GEORGE'S FARMS, INC.**

By /s John R. Elrod /s A. Scott McDaniel

*(Signed copy of document bearing signature of Attorney  
is being maintained in the office of the Filing Attorney)*

John R. Elrod (Arkansas Bar No. 71026)

Vicki Bronson (Arkansas Bar No. 97058)

CONNER & WINTERS, P.C.

100 West Center Street, Suite 200

Fayetteville, AR 72701

and

Daniel Richard Funk (Okla. Bar No. 13070)

Bruce Freeman (Okla. Bar No. 10812)

CONNER & WINTERS, P.C.

15 East 5<sup>th</sup> Street, Suite 3700

Tulsa, Oklahoma 74103-4344

(918) 586-8559

**COUNSEL FOR DEFENDANT**

**SIMMONS FOODS, INC.**

### **CERTIFICATE OF SERVICE**

I certify that on the 4<sup>th</sup> day of October 2005, I electronically transmitted the attached document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

W. A. Drew Edmondson  
Attorney General  
State of Oklahoma  
2300 North Lincoln Blvd., Suite 112  
Oklahoma City, OK 73105  
And

Douglas Allen Wilson  
Melvin David Riggs  
Richard T. Garren  
Sharon K. Weaver  
Riggs Abney Neal Turpen Orbison & Lewis  
502 West 6<sup>th</sup> Street  
Tulsa, OK 74119-1010  
and

J. Randall Miller  
David P. Page  
Louis W. Bullock  
Miller Keffer & Bullock  
222 S. Kenosha  
Tulsa, OK 74120-2421  
and

Robert Allen Nance  
Dorothy Sharon Gentry  
Riggs Abney  
5801 N. Broadway, Suite 101  
Oklahoma City, OK 73118

### **COUNSEL FOR PLAINTIFFS**

John H. Tucker  
Theresa Noble Hill  
Rhodes, Hieronymus, Jones, Tucker & Gable  
P. O. Box 21100  
Tulsa, OK 74121-1100  
**COUNSEL FOR CARGILL, INC. AND  
CARGILL TURKEY PRODUCTION,  
LLC**

Robert P. Redemann  
Lawrence W. Zeringue  
David C. Senger  
Perrine, McGivern, Redemann, Reid, Berry &  
Taylor, PLLC  
P. O. Box 1710  
Tulsa, OK 74101-1710  
**COUNSEL FOR CAL-MAINE FARMS, INC.  
AND CAL-MAINE FOODS, INC.**

I also hereby certify that I served the attached documents by United States Postal Service, proper postage paid, on the following who are not registered participants of the ECF System:

Elizabeth C. Ward  
Frederick C. Baker  
Motley Rice LLC  
28 Bridgeside Blvd.  
Mount Pleasant, SC 29464  
and  
William H. Narwold  
Motley Rice LLC  
20 Church St., 17<sup>th</sup> Floor  
Hartford, CT 06103  
And

C. Miles Tolbert  
Secretary of the Environment  
State of Oklahoma  
3800 North Classen  
Oklahoma City, OK 73118

**COUNSEL FOR PLAINTIFFS**

Robert E. Sanders  
E. Stephen Williams  
YoungWilliams P.A.  
P. O. Box 23059  
Jackson, MS 39225-3059  
**COUNSEL FOR CAL-MAINE FARMS, INC. AND  
CAL-MAINE FOODS, INC.**

Thomas C. Green  
Mark D. Hopson  
Jay Thomas Jorgensen  
Timothy K. Webster  
Sidley Austin Brown & Wood LLP  
1501 K Street NW  
Washington, DC 20005  
**COUNSEL FOR TYSON FOODS, INC., TYSON  
POULTRY, INC., TYSON CHICKEN, INC., AND  
COBB-VANTRESS, INC.**